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RESTRICTIVE MARKET PERSPECTIVE ON UNFAIR CORPORATE PRACTICES

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ABSTRACT

Markets ideally function as open, competitive spaces that promote innovation, consumer welfare, and accountability among firms. In practice, however, many economies operate as restrictive markets where structural, legal, and behavioural barriers distort competition and limit market access. This study examines the restrictive market perspective in the Indian context, emphasizing how corporate unfair practices and gaps in ethical governance contribute to market restrictions beyond policy-related obstacles. While regulatory factors such as high taxation and bureaucratic procedures constrain market entry, corporate behaviours including tax evasion, adulteration, data manipulation, and the abuse of dominant positions further entrench inequality within the marketplace. Ethical businesses, conversely, face higher compliance costs, placing them at a competitive disadvantage in an already restrictive environment. By situating restrictive markets at the intersection of corporate governance, ethics, law, and competition policy this study employs a doctrinal research method to analyze legal principles, regulatory frameworks, and corporate conduct that collectively shape market openness. The research aims to provide a conceptual and legal foundation for understanding how ethical practices and fair competition can be strengthened to move markets closer to their ideal competitive form.

Key words: Corporate ethics, Restrictive market, Anti-competitive practices, Regulatory frame work, Operational barriers.

INTRODUCTION

Markets are dynamic to foster competition, innovation, and consumer welfare. It allows new entrants to compete, ensures consumer choice, and maintains accountability among firms. However, reality often departs from this ideal. Many economies, including India, function as restrictive markets, where structural, legal, and behavioral constraints limit fair competition and distort the playing field. The

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concept of a restrictive market perspective becomes particularly relevant when studied alongside corporate unfair practices and corporate ethics, as both significantly influence market openness. Restrictive markets are not merely the result of policy design, such as high taxation or bureaucratic hurdles, but are also shaped by the behavior of corporations that engage in unethical or anti-competitive practices. When firms evade taxes, adulterate food, manipulate data, or abuse dominant market positions, they deepen restrictions and make entry and survival more difficult for firms at their level as well as for smaller or ethical competitors. At the same time, businesses that choose ethical pathways often face higher costs, making them less competitive in a restrictive environment. Thus, the restrictive market perspective lies at the intersection of corporate governance, ethics, law, and competition policy.

OBJECTIVES OF STUDY

1. To examine the nature and causes of restrictive market conditions in India, that hinder fair competition and entry of ethical businesses.
2. To study the relationship between corporate ethics and market restrictiveness highlighting how ethical business practices are in restrictive environments.
3. To explore the, social consequences of unethical corporate behavior, especially in the context of consumer welfare, sustainability, and labor exploitation.
4. To propose policy recommendations for balancing ethical business practices with competitive viability in restrictive market conditions.

REVIEW OF LITERATURE

Anna Beckers (2017): In this paper says that under EU consumer law, corporate social responsibility (CSR) can be interpreted as legally binding despite its usual portrayal as voluntary. Using the Unfair Commercial Practices Directive (UCPD) and Unfair Contract Terms Directive (UCTD), she shows that breaches of CSR commitments can be seen as misleading or unfair commercial practice, making companies legally accountable and granting consumers potential remedies^{2,i}

KM Belikova, NV Badaeva, EE Frolova, MN Dudin (2017): in this article explores how BRICS countries specifically China, India, Russia, and South Africa legally address restrictive business

² Anna Beckers, The regulation of market communication and market behaviour: Corporate social responsibility and the Directives on Unfair Commercial Practices and Unfair Contract Terms, *Common Market Law Review Journal* Vol. 54, (2), 2017, pp. 475 – 515.

practices. It examines differences in legal frameworks, particularly in regulating horizontal and vertical trade restriction concerted practices collusions , and unfair pricing or sales strategies The authors highlight that while free trade is encouraged, exceptions are legally justified under ³specific conditions. The comparative approach reveals varied enforcement mechanisms and legal interpretations within BRICS nations in countering anti-competitive behaviorⁱⁱ.

Nouiri Mohamed El Amine . Guerroui Mohammed Essalih . Mokaddem Racha (2024): In this article examines unfair competition lawsuits as a legal tool to combat restrictive business practices in Algeria. It highlights how competitors may abuse the freedom of trade through deceptive or harmful practices, prompting legal intervention. The study focuses on Ordinance No. 03-03 and Law No. 04-02 which empower affected parties to seek judicial remedies and compensation for damages caused by unfair competition. This reflects a legal shift toward protecting fair market dynamics and holding violators accountable.⁴ⁱⁱⁱ

S.Segarajasingham (2025): in this study explores consumer protection frameworks in Sri Lanka India and the United Kingdom focusing on their impact on trade development and market inclusivity The literature highlights the weak enforcement and inadequate legal mechanisms in Sri Lanka, which undermine consumer trust and hinder economic participation. By comparing international best practices, the research underscores the need for stronger regulatory structures consumer activism and alignment with global trade standards It situates consumer protection as central to inclusive growth foreign investment and sustainable economic development in emerging economies⁵.^{iv}

RESEARCH GAP

The reviewed literature reveals significant progress in the academic and policy discourse around unfair commercial practices competition law and consumer protection particularly within the EU and selected emerging economies. However, several critical gaps remain unaddressed in the existing body of knowledge, especially in the context of India's restrictive market structure and its interplay with corporate ethics and unfair practices.

³ KM Belikova, Et Al. Concept and Different Types of Restrictive Business Practices in the Legal Orders of BRICS Countries (the Case of China, India, Russia and South Africa), Journal of advanced research in law and economics, Issue Year VIII/2017 No: 24,pp404-410 .

⁴ Nouiri Mohamed El Amine . Guerroui Mohammed Essalih . Mokaddem Racha, Unfair Competition Lawsuit As A Mechanism To Limit Restrictive Practices *Ask for sciences journal* Issn: 2507-7228 Vol 9, pp 221-234 .

⁵S.Segarajasingham, Enhancing Consumer Protection Laws For Equitable Market Participation As A Path To Inclusive Growth In Emerging Economies: Critical Analysis On Sri Lankan Law *International Journal of Business, Economics and Law*, Vol. 34, Issue 1 (Apr 2025) ISSN 2289-1552.

- Lack of Integration Between Market Restrictiveness and Corporate Ethics.

While all the studies (e.g., Beckers, Yadav, and the BRICS comparative analysis) examine legal frameworks and enforcement mechanisms to regulate market behavior and unfair trade practices, none holistically integrate the dimensions of market restrictiveness, corporate ethics, and unfair practices my study uniquely addresses how regulatory, infrastructural, and behavioral restrictions shape ethical decision-making and competitiveness in Indian markets.

- Underexplored Burden of Ethical Conduct in Restrictive Markets.

Most literature considers corporate social responsibility (CSR and ethical practices as desirable or enforceable (e.g., Beckers' argument for binding CSR under EU law), but few studies explore how such ethical behavior becomes a liability in restrictive markets due to high compliance costs, weak institutional support, and unfair competition this research explicitly explores this conflict and the resultant disincentives for ethical businesses.

- India-Specific Gaps in Effects-Based Analysis.

Although the shift from form-based to effects-based analysis in Indian competition law is noted (e.g., in the 2018 study on abuse of dominance), there is a lack of research that connects this analytical evolution to real market dynamics such as predatory pricing, cartelization, and regulatory evasion my study builds on this by connecting legal enforcement trends to corporate behavioral patterns and their impact on smaller or ethical businesses.

- Neglect of Positive Ethical Practices as Competitive Tools.

Literature on unfair practices (Yadav, UNCTAD reports, etc.) mostly focuses on violations and negative impacts There is limited academic attention to successful ethical practices such as CSR, sustainable sourcing, and labor welfare as strategic tools for market differentiation this paper identifies and analyzes positive case studies.

- Absence of Policy Frameworks Balancing Ethics and Market Viability.

Although the literature includes calls for better enforcement (e.g., in Sri Lanka and India), there is little discussion on how to incentivize ethical conduct in a way that is also economically viable my proposal for the reforms, including Ethical Company Certification, tax incentives and internal corporate ethics committees contributes actionable insights which are discussed below are missing from existing research.

RESEARCH METHODOLOGY

This is a doctrinal research, based on analyzing and interpreting existing literature this paper is analytical and comparative in nature ive analysed various other literatures and compared to extract the best from those literatures.

1. INDIA AS A RESTRICTIVE MARKET

India is one of the world's fastest-growing economies, yet its market landscape is often described as restrictive due to a range of structural, regulatory, and operational barriers few of them are discussed below

Tax Barriers High tax burdens, complex GST filing requirements, and compliance costs create difficulties for small and medium enterprises (SMEs). Differential tax treatment across states also leads to regional disparities.

Bureaucratic Red Tap Lengthy procedures for obtaining licenses, registering businesses, or securing clearances often delay new entrants. Despite the Ease of Doing Business reforms, the regulatory environment continues to discourage smaller firms.

Trade Restrictions and Tariffs Import duties and protectionist policies, though aimed at supporting domestic industry, often raise costs for businesses dependent on foreign raw materials. This indirectly restricts competitiveness.

Infrastructure and Logistics Poor logistics networks, high energy costs, and uneven access to infrastructure add layers of difficulty, particularly for rural or regional entrepreneurs.

Financial Barriers Limited access to affordable credit for startups and SMEs makes survival harder, giving larger corporations a stronger hold

Together, all these restrictions create a market where only resource-rich corporations can thrive, while smaller or ethical businesses face an uphill battle.

2. WHAT IS CORPORAT'S UNFAIR (ANTI-COMPETITIVE) PRACTICE?

Corporate unfair practices, can be anti-competitive practices, like strategies adopted by firms to restrict competition and maintain dominance at the expense of consumers and smaller players.

Few of such Anti-Competitive Practice are as follows:

- a) **Predatory Pricing** A dominant player temporarily lowers prices below cost to drive competitors out of the market. Example: Telecom sector, where new entrants faced immense pressure due to deep discounting strategies.
- b) **Cartelization** Firms collude to fix prices or control supply. Example: Cement and pharmaceutical cartels fined by the Competition Commission of India (CCI)
- Bid Rigging** Companies manipulate tender processes, limiting fair competition.

- c) Abuse of Dominant Position Restricting access, discriminatory pricing, or exclusive supply agreements. Example: E-commerce platforms accused of favoring specific sellers

Such practices will influence the market environment by reducing consumer choice, inflate prices, and hinder innovation.

3. WHAT IS CORPORATE ETHICS?

Corporate ethics refers to the moral principles and standards guiding business behavior toward employees, consumers, society, and the environment. Ethics is subjective—what seems ethical to one stakeholder may appear unethical to another—but at its core, corporate ethics focuses on responsibility, fairness, and sustainability.

UNETHICAL PRACTICES INCLUDE

- Adulteration in food Using low-quality or harmful substances to cut costs.
- Poor-quality raw materials Exploiting consumers' trust for profit.
- Tax evasion Depriving the state of legitimate revenue.
- Labor exploitation Low wages, unsafe conditions, denial of benefits.
- Environmental harm Polluting rivers, deforestation, or hazardous waste dumping.

REASONS FOR COMPANIES TO ACT UNETHICALLY?

- High compliance costs in restrictive markets.
- Weak enforcement of laws.
- Competitive pressure to reduce costs.
- Ethical Practices as a Burden.

ETHICAL PRACTICES INCLUDE

- Sustainable packaging Increases production costs and ultimate aim of making profit is difficult.
- Employee welfare Providing insurance, housing, or education adds on to the expenses.
- Fair sourcing Supporting farmers, artisans, and local industries often requires paying higher rates.

4. REGULATORY AUTHORITIES.

In India the below are few of the regulatory authorities which includes

Competition Commission of India (CCI) it promotes fair competition by preventing anti-competitive agreements, abuse of dominant positions, and regulating mergers that may harm market competition. It ensures a level playing field for businesses, enhances consumer welfare, and fosters innovation by maintaining competitive markets in India.

Securities and Exchange Board of India SEBI regulates the securities market to protect investors' interests and ensure transparency in dealings of listed companies. It monitors stock exchanges, brokers, and mutual funds, aiming to prevent fraudulent activities and insider trading while fostering the development of an efficient and robust capital market though SEBi regulated the function of company with regards to shares.

Ministry of Corporate Affairs MCA administers corporate laws, especially the Companies Act, ensuring transparency and accountability in corporate governance. It regulates company registrations, financial disclosures, audits, and compliance. MCA also promotes investor awareness and protects stakeholder interests by overseeing corporate behavior and structure in India.

Few of the branches constituted under this ministry includes Registrar of Companies (ROC), Serious Fraud Investigation Office (SFIO), Insolvency and Bankruptcy Board of India (IBBI), Investor Education and Protection Fund Authority (IEPFA), and statutory/judicial bodies such as the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT).

National Green Tribunal NGT adjudicates environmental disputes and ensures effective enforcement of environmental laws. It deals with cases related to pollution, deforestation, waste management, and environmental clearance. NGT aims for swift and affordable justice in environmental matters, emphasizing sustainable development and ecological protection.

Food Safety and Standards Authority of India FSSAI regulates and supervises food safety standards to ensure that food consumed in India is safe, hygienic, and free from adulteration. It sets scientific standards for food production, distribution, and sale while monitoring and controlling food-related risks to protect public health.

IN OTHER COUNTRIES

- United States: Federal Trade Commission (FTC), Securities and Exchange Commission (SEC).
- European Union: European Competition Commission enforces antitrust laws.

- United Kingdom: Financial Conduct Authority (FCA) and Competition & Markets Authority (CMA).
- Japan: Japan Fair Trade Commission (JFTC).

5. ANTI-CORPORATE PRACTICE AS A DEMERIT

Environmental Destruction Industries releasing toxic waste or unsustainable mining practices harm long-term ecological balance. Labor Exploitation Underpayment, unsafe working conditions, and denial of social security benefits. Monopolistic Behavior Predatory pricing and restricting consumer access. Limiting Consumer Choice Restrictive agreements, bundling of services, and cartelization reduce available options.

SUGGESTION

- Voluntary Public Disclosure of CSR.

Mandate independent audits and public disclosure of corporate social responsibility (CSR).

- Strict Whistleblower Protection Laws.

encourages reporting of fraud, tax evasion, adulteration...

- Effective Functioning Of Existing Regulatory Bodies.

Equip the CCI and SEBI with greater investigative powers. Impose penalties for anti-competitive practices, increase the penalty from monetary to social contribution.

- AI-based monitoring tools.

Can be done to detect market manipulation, tax evasion, and environmental violations in real-time more accurately.

- Consumer Empowerment.

Introduce mandatory product labeling standards on sourcing, sustainability, legibility and labor practices Conduct nationwide awareness campaigns to encourage ethical consumption.

- Constitute a Advisory Council for Corporate–Government.

Create a advisory body with representatives from government, industry, consumer groups, and corporate where it functions to Identify where excessive regulation creates incentives for malpractice and suggest measures.

- Simplify Market Regulations.

Establish single-window clearance systems for new businesses to reduce bureaucratic red tape.
Rationalize tax structures to reduce compliance burdens and prevent evasion.

- Business Incentives.

Offer tax rebates or preferential government contracts to companies that adopt sustainable packaging, provide fair wages, support local industries.

- Labelling For Appreciation E.g. “Ethical Company Certification”.

It can be issued for firms complying with environmental, labor, and consumer welfare standards. This influence the customer to buy products of that companies.

CONCLUSION

Balancing restrictive market structures, corporate unfair practices, and ethical standards requires multi-level reform. In the short term, strict enforcement and accountability can deter malpractice. In the medium term, structural reforms like advisory councils, simplified taxation, and ethical incentives can align government and corporate interests. In the long term, embedding ethics in corporate culture and aligning India with global standards of governance will ensure that markets remain competitive, fair, and socially responsible. This balanced approach ensures that profitability, consumer welfare, and ethics coexist harmoniously in India’s economic framework.

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