

## CHAPTER - IV

### THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969 POLICY, PROVISIONS AND PERFORMANCE

**4.1** The MRTP Act, 1969 has its genesis in the Directive Principles of State Policy embodied in the Constitution of India. Clauses (b) and (c) of Article 39 of the Constitution lay down that the State shall direct its policy towards ensuring:

- (i) that the ownership and control of material resources of the community are so distributed as to best serve the common good; and
- (ii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

#### **Provisions Relating to Monopolistic, Restrictive and Unfair Trade Practices**

**4.2.1** Section 10 of the MRTP Act, 1969 empowers the MRTP Commission to enquire into monopolistic or restrictive trade practices upon a reference from the Central Government or upon its own knowledge or on information. The MRTP Act, 1969 also provides for appointment of a Director General of Investigation and Registration for making investigations for the purpose of enquiries by the MRTP Commission and for maintenance of register of agreements relating to restrictive trade practices.

**4.2.2** The MRTP Commission receives complaints both from registered consumer and trade associations and also from individuals either directly or through various Government Departments. Complaints regarding Restrictive Trade Practices or Unfair Trade Practices from an association are required to be referred to the Director General of Investigation and Registration for conducting preliminary investigation in terms of Sections 11 and 36C of the MRTP Act, 1969 and Regulation 119 of the MRTP Commission Regulations, 1974. The Commission can also order a preliminary investigation by the Director General of Investigation and Registration when a reference on a restrictive trade practice is received from the Central/ State Government, or when Commission's own knowledge warrants a preliminary investigation. Enquiries are instituted by the Commission under relevant Sections of the MRTP Act, 1969 after the Director General of Investigation and Registration has completed the preliminary investigation and as a result of the findings, submits an application to the Commission for an enquiry.

#### **Monopolistic Trade Practices**

**4.3** Five enquiries under Section 10(b) were pending with the MRTP Commission at the beginning of the year 2005, while no fresh inquiry was instituted during the period April, 2005-December, 2005. All the 5 enquiries were pending as on 31.12.2005.

## **Restrictive Trade Practices**

### **Under Section 10(a)(i)**

**4.4** 293 enquiries, including 267 brought forward from the previous year, were considered during April 2005-December 2005 of which 48 enquiries were disposed of during the said period and the remaining 245 enquiries were pending with the Commission as on 31<sup>st</sup> December 2005.

### **Under Section 10(a)(ii)**

**4.5** Neither any enquiry was brought forward from the previous year nor any enquiry was instituted under this Section during the year.

### **Under Section 10(a)(iii)**

**4.6** 39 enquiries including 37 brought forward from the previous year were taken up by the Commission during April 2005 to December 2005. One enquiry was disposed of during the period and the remaining 38 were pending with the Commission as on 31<sup>st</sup> December 2005.

### **Under Section 10(a)(iv)**

**4.7** 58 enquiries were brought forward from the previous year and 3 fresh enquiries were instituted by the Commission during the year from April 2005 to December 2005. 6 enquiries were disposed of during the said period and 55 enquiries were pending with the Commission as on 31<sup>st</sup> December 2005.

## **Unfair Trade Practices**

**4.8** Provisions relating to Unfair Trade Practices were incorporated in the MRTP Act, 1969 in 1984. Unfair Trade Practices have been defined in Section 36A as trade practices which for the purpose of promoting the sale, use or supply of any goods or for provision of any services, adopt one or more of the practices mentioned therein and thereby cause loss or injury to the consumers of such goods or services, whether by eliminating or restricting competition or otherwise.

### **Under Section 36B(a)**

**4.9** 491 enquiries including 410 enquiries brought forward from the previous year were considered by the Commission during April, 2005 - December 2005. Of these, 54 enquiries were disposed of and the remaining 437 enquiries were pending as on 31<sup>st</sup> December 2005.

### **Under Section 36B(b)**

**4.10** Neither any enquiry under Section 36B (b) of the MRTP Act, 1984 was initiated nor any enquiry was brought forward during April, 2005- December, 2005.

### **Under Section 36B(c)**

**4.11** 1 enquiry brought forward from the previous year before the Commission is still pending as on 31.12.2005.

### **Under Section 36B(d)**

**4.12** 176 enquiries, including 169 brought forward from the previous year, were taken up by the Commission during April, 2005 - December 2005. Eight enquiries were disposed of and 168 enquiries were pending with the Commission as on 31<sup>st</sup> December 2005.

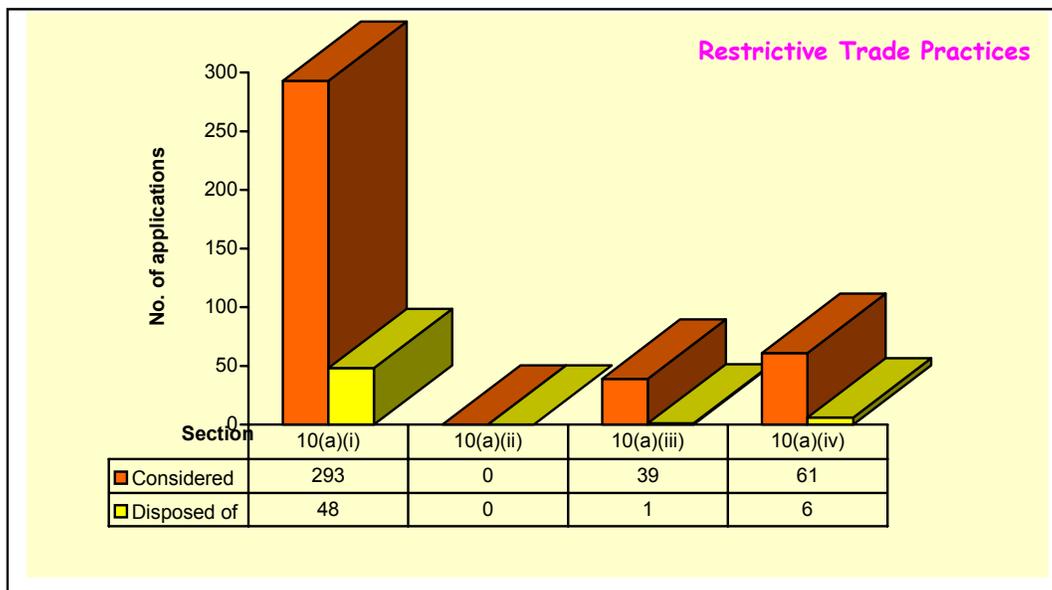
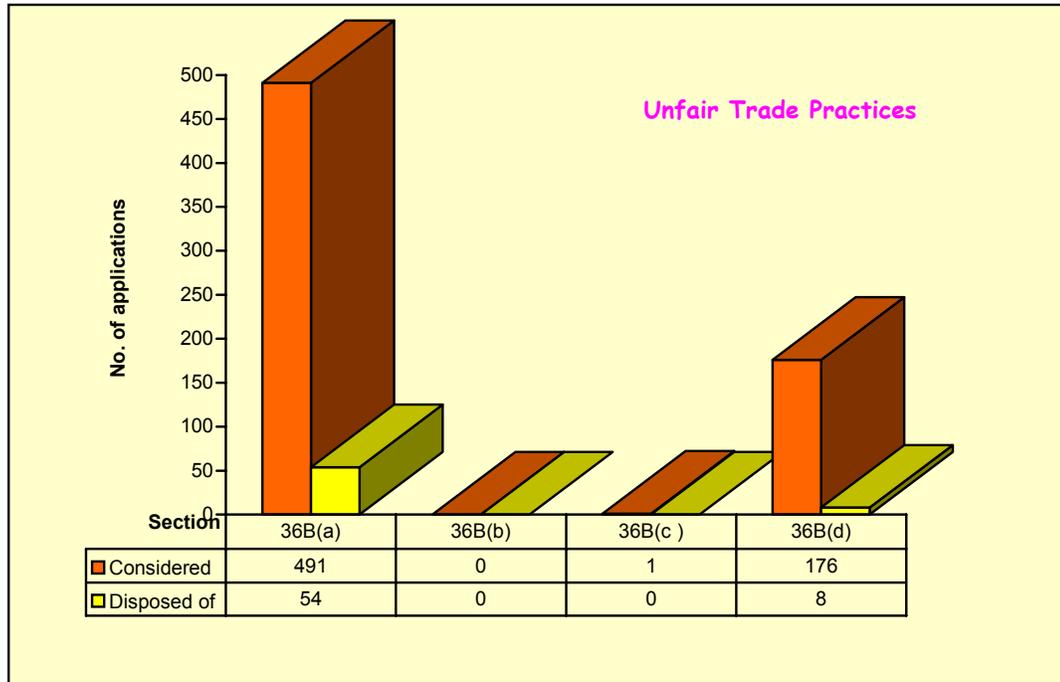
**Temporary Injunctions**

**4.13** Besides 143 applications pending under Section 12A with the MRTP Commission as on 1<sup>st</sup> April, 2005, 43 applications were received by the Commission during the period April, 2005 - December 2005. Out of 186 applications, 55 were disposed of and the remaining 131 applications were pending under Section 12A with the Commission as on 31<sup>st</sup> December, 2005.

**Award of Compensation**

**4.14** During the period April, 2005 - December 2005, 1341 applications under Section 12B including 1264 applications brought forward from the previous year were considered by the Commission. Of these, 126 applications were disposed of by the Commission during the period and the remaining 1215 applications were pending as on 31<sup>st</sup> December, 2005

**Enquiries considered and disposed of by MRTP Commission as on 31.12.2005**



**Registration of Agreements**

**4.15.1** Section 35 of the MRTP Act, 1969 requires every agreement relating to Restrictive Trade Practices falling within one or more of the categories enumerated in Section 33(1) of the Act to be furnished for registration within 60 days of the making of such agreement.

**4.15.2** In pursuance of this provision, during the period April, 2005 to December 2005, 7 agreements were received for registration. The same were registered and entered in the Register of Agreements.

**4.15.3** A total number of 39,993 agreements were filed up to the end of 31<sup>st</sup> December, 2005, by various undertakings. Out of these, particulars of 39,116 agreements were entered in the Register of Agreements.

## **Investigation by Director General (Investigation & Registration)**

### **Investigation**

**4.16** The Director General is required to conduct preliminary investigation in respect of restrictive, monopolistic and unfair trade practices as and when an order of preliminary investigation is received from the MRTP Commission. As on 1.4.2005, one investigation was in progress. During the period from 1.4.2005 to 31.12.2005, 49 fresh orders of preliminary investigations were received. Out of 50 investigations, Preliminary Investigation Report was submitted in 11 cases and 39 investigations were pending at the end of the year. Besides, the Director General has suo motto powers to initiate preliminary investigations into monopolistic, restrictive and unfair trade practices, and in case any of these trade practices are detected during such investigation, the Director General is empowered to file applications under Sections 10(a)(iii)/ 10(b)/36B(c) of the Act for initiation of enquiry proceedings by the MRTP Commission. As a result of such suo moto investigations, 5 applications were filed under Section 36B(c) alongwith 4 applications under Section 12A of the Act for interim injunction during the period 1.4.2005 to 31.12.2005. In addition, 3 applications were filed under Section 10(a)(iii) of the Act for enquiry into restrictive trade practices during the said period. Thus, a total of 12 applications have been filed during the period 1.4.2005 to 31.12.2005.

### **Consumer Protection**

**4.17** Of late, consumer protection movement has been sweeping across the whole country. The consumers have been organising themselves into consumer bodies all over the country to safeguard the public and consumers' interest against unfair trade practices being indulged in by parties through misleading advertisements, bargain-sales, organisation of sale promotion contests, marketing goods which do not conform to standards of safety etc. An independent Chapter regarding unfair trade practices was inserted in the MRTP Act in 1984 and the consumers are taking full benefit of the provisions contained in this Chapter by filing complaints in this office. Facility of speedy redressal of their grievances is provided by this office. During the period April, 2005 to December, 2005, this office has handled as many as 123 complaints received from consumers and other parties including 22 brought forward from the previous year. Of these, 64 complaints were disposed of during the period and 59 complaints were pending as on 31.12.05.

## Carriage of proceedings

### Before the Commission

**4.18** The Director General is the custodian of public interest in the enquiry proceedings before the Commission and he has to appear in person or through his counsel to safeguard the public interest before the Commission. As on 31.12.05, 144 enquiries were being prosecuted before the MRTP Commission.

### Before the Supreme Court/ High Courts

**4.19.1** The position of appeals filed and pending before the Supreme Court/ High Courts is given in table 4.1 :-

**Table 4.1**

#### Appeals filed and pending before the Supreme Court/High Courts

	Pending as on 1.4.2005	Filed during 1.4.2005 to 31.12.2005	Disposed of during 1.4.2005 to 31.12.2005	Pending as on 31.12.2005
Appeals before the Supreme Court	69	0	32	37
Writs in different High Courts	70	10	0	80

**4.19.2** The Director General has been appearing in all the required Appeals/ Writ Petitions before the Supreme Court and High Courts through the counsels appointed by the Central Agency Section Litigation Branches of the Department of Legal Affairs, Ministry of Law & Justice.