



**INDIAN COMPETITION LAW ALERT**

**SUN SETS ON THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969**

*The sun is about to set on the Monopolies and Restrictive Trade Practices Act, 1969 (the **MRTP Act**) as section 66 of the Competition Act, 2002 and section 50 of the Competition (Amendment) Act, 2007 are brought into force...*

Pursuant to a notification of the Ministry of Corporate Affairs<sup>1</sup>, **as from 1 September 2009**, the MRTP Act shall stand repealed<sup>2</sup> and the provisions relating to the transition and eventual transfer of cases pending before the Monopolies and Restrictive Trade Practices Commission (the **MRTP Commission**)<sup>3</sup> will come into force.

**Salient aspects of the changes which are being brought into force:**

- **MRTP Commission:**
  - The MRTP Commission will continue to exercise jurisdiction and power under the repealed MRTP Act in respect of any case or proceeding filed before 1 September 2009, for a period of two years. It will not, however, decide or adjudicate any new case arising under the MRTP Act on or after 1 September 2009.
  - Upon the expiry of the specified two year period, the MRTP Commission shall stand dissolved and all employees, including the Chairman, Member and Director General of Investigation and Research shall vacate their offices. However, those individuals who are employed on a regular basis by the MRTP Commission immediately before its dissolution shall become employees of the CCI/ Competition Appellate Tribunal from the date of the MRTP Commission's dissolution.
- **Savings under the MRTP Act:** The repeal of the MRTP Act will not affect any right, privilege, obligation or liability acquired/ incurred under the MRTP Act and any penalty, confiscation or punishment incurred in respect of any contravention under the MRTP Act, prior to 1 September 2009. Until the MRTP Commission is dissolved, all proceedings in respect of any of the above may be instituted, continued or enforced by the MRTP Commission, as if the MRTP Act had not been repealed.

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<sup>1</sup> Notification No. SO2204(E) dated 28 August 2009

<sup>2</sup> Section 66 of the Competition Act, 2002

<sup>3</sup> Section 50 of the Competition (Amendment) Act, 2007



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- **Transfer of pending cases:** Upon the expiry of two years from 1 September 2009, cases pending before the MRTP Commission will be transferred as follows:
  - Monopolistic and restrictive trade practice cases: All pending cases pertaining to monopolistic or restrictive trade practices, including any case that also includes an element of unfair trade practice, shall stand transferred to the Competition Appellate Tribunal, which shall adjudicate such cases in accordance with the provisions of the repealed MRTP Act.
  - Unfair trade practice cases: All pending cases relating solely to unfair trade practices shall stand transferred to the National Commission as constituted under the Consumer Protection Act, 1986, which may in turn transfer such cases to a State Commission constituted under the Consumer Protection Act 1986, under circumstances it deems appropriate.
  - Cases relating to giving false or misleading facts disparaging the goods, services or trade of another person under the MRTP Act<sup>4</sup>: All such pending cases shall be transferred to the Competition Appellate Tribunal.
  
- **Investigations/proceedings undertaken by the Director General under the MRTP Act:** With effect from 1 September 2009, all pending investigations and proceedings by the Director General relating to:
  - Monopolistic/ restrictive trade practices will be transferred to the CCI, who may conduct such investigations/ proceedings in any manner it deems appropriate.
  - Unfair trade practices will be transferred to the National Commission under the Consumer (Protection) Act 1986.
  - Giving false or misleading facts disparaging the goods, services or trade of another person will be transferred to the CCI.

**31 August 2009**

### Disclaimers

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<sup>4</sup> Section 36A (1)(x) of the MRTP Act



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