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Interface between Competition and Intellectual Property Rights

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# Contents

## Preface

Relationship between Competition and Intellectual Property  
*Allan Fels AO* ............................................................... 1

2. **Treading on a Tricky Turf: IP vs Competition Law**  
*Shamnad Basheer* ................................................................ 4

3. **Standard-Essential Patents and Market Power**  
*Anne Layne-Farrar and Koren W. Wong-Ervin* ..................... 7

4. **Intellectual Property Rights and Competition Policy:**  
**A Few Suggestions for Developing Countries**  
*Keith E. Maskus* ................................................................ 10

5. **Intellectual Property Licensing and Competition law:**  
**Case of Japan in Global Context**  
*Toshiaki Takigawa* ............................................................ 13

6. **Monopolization, Abuse of Dominance, and refusal to License**  
**Intellectual Property to Competitors–Do Antitrust Duties Help or Hurt Competition and Innovation? How Do We Know?**  
*Eleanor M. Fox* ................................................................. 17

7. **Linkages between Competition and Intellectual Property Rights**  
*Augustine Peter and Neha Singh* ........................................ 30

8. **The Patent-Competition Interface from a Developing Country Perspective**  
*Thomas K. Cheng* ............................................................ 33

9. **Regulating the digital economy**  
*Payal Malik* ....................................................................... 35

10. **Big Data and Antitrust: A European Competition Law Introduction**  
*Pedro Callol* ................................................................. 38
11. Competition and Intellectual Property Rules 36 Years After Adoption of the UN Set of Principles and Rules on Competition
   Philippe Brusick

12. New Challenges for Competition Enforcement
   Geeta Gouri

13. Should Intellectual Property be exempt from the application of Competition Law?
   Thula Kaira

   S Chakravarthy

15. Linkage between competition law and intellectual property
   Dhanendra Kumar

16. Challenges of Optimal Innovation & India in the New World Order
   Sarita Kapur & Amit Kapur

17. Competition and Intellectual Property in Pakistan
   Rabia Manzoor, Vaqar Ahmed and Ghulam Samad

18. Parallel Import and Exhaustion Law in Mauritius: Call for reform
   Mosadeq Sahebdin

19. Competition law to promote access to medicines: a human rights perspective
   Nuna Van Belle

20. Interface of Competition and Standard Essential Patents: Selecting the appropriate base for Fair, Reasonable and Non-Discriminatory (FRAND) royalties
   Parveer Singh Ghuman
Competition and Intellectual Property in Pakistan

Rabia Manzoor, Vaqar Ahmed and Ghulam Samad

The multilateral agreements under UN on competition policies that provides a set of equitable rules for the control of anti-competitive practices, recognize the development dimension of competition law and policy, while also providing a framework for international operation and exchange of best practices (UNCTAD 2015). The overall focus of the efforts at UN level is to limit any adverse impact that restrictive business practices (RBPs) may have on the economic development process of developing countries and potential gains from international trade.

The history of competition law in Pakistan dates back to the 1970s when Pakistan promulgated the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970. The Monopoly Control Authority was established to enforce this law. However, considering the changed economic conditions and various limitations of this legislation, the Government overhauled the competition regime in 2007 by enacting a new legislation - Competition Ordinance 2007. This was a competition law on modern lines and essentially based on the principles given in the Treaty of Rome. The Ordinance also established the Competition Commission of Pakistan (CCP) to implement the new law. The Ordinance was enacted as an Act of Parliament in October 2010.

The Competition Act 2010 guides corporate behaviour, empowers the consumer, and mandates a professional, autonomous institution to enforce the law (CCP 2016). Being a part of the broader competition policy framework, the Act endeavours to engender free competition in all spheres of commercial and economic activity with the aim to provide all entities an equal opportunity to participate in the economy. The law prohibits actions that tend to lessen competition such as abuse of market dominance, agreements that restrict dominance, and deceptive marketing practices. The law sets out procedures relating to review of mergers and acquisitions, enquiries, imposition of penalties, grant of leniency, and other essential aspects of law enforcement.

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Despite these efforts, Pakistan faces numerous challenges to build an across the board ‘competitive culture’ (see Ahmed et al. 2015, Khan and Ahmed 2014, and Suleri et al. 2014). The CCP encounters opposition by vested interests in almost all sectors of the economy (World Bank 2016, Ahmed and Batool 2014, SDPI 2016). Being well aware of this challenge, CCP is vigorously pursuing an advocacy agenda to inform, educate and persuade its stakeholders on the need and implementation of competition law.

While competition law is an important tool for promoting consumer well-being, this law is helped by strengthening of intellectual property (IP) framework and law in the country. Pakistan had promulgated the IP law in early-2000. IPO-Pakistan was established in 2005 in order to manage the dispersed components with in the IP framework. The Federal Investigation Agency (FIA) was authorized to raid the counterfeiting producing industries; measures were taken to establish IP judiciary system. During the past decade, we have seen increased number of patents registration which has given a boost to the innovation culture (Samad and Manzoor 2015, Janjua and Samad 2007, Khalid et al 2010).

The business community in Pakistan also appreciates the IPO-Pakistan’s efforts as respect of IP laws is an important requirement for accessing Generalized System of Preferences (GSP) and related market access incentives provided by United States and European Union.

While both CCP and IPO-Pakistan will need to acquire greater autonomy and independence in running their affairs, the political leadership in Pakistan needs to be cognizant of the commitments made under Trade Related Intellectual Property Rights (TRIPs) agreement. As Pakistan endeavors to become part of the regional and global supply chains, foreign investors and importers will attach immense importance to the compliance aspect under TRIPs and related multilateral commitments. Ultimately a coordinated and proactive implementation of competition and IP laws delivers lower prices, greater choice and more responsive markets.
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