

## Question 1

*Explain the extent to which it is possible to observe ethical behaviour in marketing. Also explain in brief the merits and demerits of the above.*

## Answer

**Ethical behaviour in Marketing; Merits and Demerits:** Market is flooded with duplicate goods having fake labels for selling drugs, food stuffs, consumables like agarbathis, suparis etc. followed by misleading advertisements. This results in disrepute for the products of good companies even though such fake goods are small in quantities. Setting high ethical standard and enforcing them reverses the position. If government notices such depletion of ethical standard, rigid regulations are brought in and are never withdrawn. Marketing executives enjoy great amount of social power in influencing the society. They also are the emblems for the organization. Once the virtues are lost it is difficult to regain the social power, influence and image.

## Question 2

*Answer 'yes' or 'no' with brief reason:*

*Ethics are necessary in marketing to build Brand image only.*

## Answer

No, the ethics are necessary in marketing not only to build image, but ethics are necessary for sustainable development of business, and ultimately for transparency and good corporate governance in the country.

## Question 3

*Answer whether the statement is correct or incorrect with brief reason:*

*Ethical behaviour in marketing is necessary to avoid Government intervention/ regulation.*

## Answer

**Correct:** Business apathy, resistance or token responses to unethical behaviour simply increase the probability of more Governmental regulation. Indeed, most of the Governmental limitations on marketing are the results of management's failure to live up to its ethical responsibilities at one time or other. However, once some form of government control has

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been introduced, it is rarely removed. So, business enterprises in their own interest must behave ethically in marketing.

### Question 4

*Explain the pragmatic reasons for maintaining ethical behaviour in marketing through marketing executives.*

**OR**

What reasons force a marketing executive to adopt ethical practices in marketing? Explain.

### Answer

**Pragmatic reasons for maintaining ethical behaviour:** Marketing executives should practice ethical behaviour because it is morally correct. To maintain ethical behaviour in marketing, the following positive reasons may be useful to the marketing executives:

1. **To reverse declining public confidence in marketing:** Sometime misleading package labels, false claim in advertisement, phony list prices, infringement of trademarks pervert the market trends and such behaviour damages the marketers' reputation. To reverse this situation, business leaders must demonstrate convincingly that they are aware of their ethical responsibility and will fulfill it. Companies must set high ethical standards and enforce them. Moreover, it is in management's interest to be concerned with the well being of consumers, since they are the lifeblood of a business.
2. **To avoid increase in government regulation:** Business apathy, resistance, or token responses to unethical behaviour increase the probability of more governmental regulation. The governmental limitations may also result from management's failure to live up to its ethical responsibilities. Moreover, once the government control is introduced, it is rarely removed.
3. **To retain power granted by society:** Marketing executives wield a great deal of social power as they influence markets and speak out on economic issues. However, there is a responsibility tied to that power. If marketers do not use their power in a socially acceptable manner, that power will be lost in the long run.
4. **To protect the image of the organisation:** Buyers often form an impression of an entire organisation based on their contact with one person. That person represents the marketing function. Some times a single sales clerk may pervert the market opinion in relation to that company which he represents.

Therefore, the ethical behaviour in marketing may be strengthened only through the behaviour of the marketing executives.

### Question 5

*Answer 'yes' or 'no' with brief reason:*

*Consumer purchases goods and health services for personal purposes only.*

**Answer**

No. The consumer does not purchase goods and health services for personal purposes only, because on certain occasions various items are purchased for public welfare and development of the society as a whole. Further, under the Competition Act, 2002, a consumer is also one who may purchase goods for commercial purposes also.

**Question 6**

*Answer whether the statement is correct or incorrect with brief reason:*

*'Competition Act, 2002 protects the interest of consumers'.*

**Answer**

**Correct:** The Competition Act, 2002 intends to protect the interests of consumers by establishing a commission to prevent practices having adverse effect on competition and to promote and sustain competition in markets. The commission is empowered to prohibit certain agreements which are considered as anti-competitive in nature, abuse of dominant position and regulation of combinations likely to cause appreciable adverse effect on competition.

**Question 7**

*A retailer was purchasing goods regularly from XYZ Ltd. for the purpose of resale. There were defects in the goods in one of the purchase lot and as a result the retailer suffered loss of his share in competition. The retailer sued the said company for this reason. The company contended that the goods were purchased for the purpose of resale and therefore, not bound. Is it a valid contention? Explain clearly the provisions of the Competition Act, 2002 in this regard*

**Answer**

The problem as asked in the question is based on the provisions of Section 2(f) of the Competition Act, 2002. The Section provides that "consumer" means any person who buys any goods for a consideration which has been paid or promised or partly paid or partly promised or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised or under any system of deferred payment when such use is made with the approval of such person whether such purchase of goods is for resale or for any commercial purpose or for personal use.

Hence Section 2(f) of the Competition Act, 2002 provides that whether purchase of goods is for resale or for any commercial purpose or for personal use, the purchaser is a consumer. Thus consumer will also include a person who purchases goods for re-sale. Therefore the contention of XYZ Ltd. is not valid and not tenable.

**Question 8**

*Answer whether the statement is correct or incorrect with brief reason:*

*'Consumer for personal use and consumer for commercial use are synonymous'.*

**Answer**

**Incorrect:** It seems that the definitions of "consumer" under Competition Act, 2002 and under Consumer Protection Act, 1986 are substantially the same. But there is difference between the two and that difference is that under clause (1) of Section 2(f) in Competition Act, the words used are "whether such purchase of goods is for the resale of for any commercial purpose or for personal use" in place of the words "but does not include a person who obtains such goods for resale of for any commercial purpose" as in the Consumer Protection Act. Likewise in clause (ii) the words used in the Competition Act are "Whether such hiring or availing of services is for any commercial purpose or for personal use" in place of the words "but does not include a person who avails of such services for any commercial purpose" as in the Consumer Protection Act. Thus in case of Competition Act the word consumer includes both consumer for personal use and for commercial use but it is not so in the case of the Consumer Protection Act.

**Question 9**

*Answer whether the statement is correct or incorrect with brief reason.*

*'Consumer interest' and 'Public interest' are synonymous'.*

*Or*

*Differentiate between 'consumer interest' and 'public interest'.*

**Answer**

**Incorrect:** Apparently it seems that public interest and consumer interest are synonymous, but it is not so. They may be differentiated as under:

- (i) In the name of public interest, many Governmental policies are formulated which manifest themselves in anti-competitive behaviour. If the consumer is at the fulcrum, consumer interest and welfare should have primacy in all governmental policy formulations.
- (ii) Consumer is a member of a broad class of people who purchase, use, maintain and dispose of products and services. They are being affected by pricing policy, financing practice, quality of goods, services and trade practices. They are clearly distinguished from manufacturers who produce goods for wholesalers, retailers who sell goods in public interest.

Public interest is something in which the society as a whole has some interest, and is seen as an externality to competitive markets. There is also a justifiable apprehension that in the name of public interest, Governmental policies may be fashioned and

introduced which may not be in the ultimate interest of the consumers. In fact in such situations, there is the possibility that a conflict could arise between public interest and consumer interest.

#### Question 10

*What are the United Nations' guidelines themes on consumer protection? Enumerate also the consumer rights enshrined therein.*

#### Answer

The UN Guidelines call upon governments to develop, strengthen and maintain a strong consumer policy, and provide for enhanced protection of consumers by enunciating various steps and measures around eight themes (UNCTAD, 2001). These eight themes are:

1. Physical safety
2. Economic interests
3. Standards
4. Essential goods and services
5. Redress
6. Education and information
7. Specific areas concerning health
8. Sustainable consumption

The Guidelines have implicitly recognised eight consumer rights, which were made explicit in the Charter of Consumer International as follows:

- Right to basic needs
- Right to safety
- Right to choice
- Right to redress
- Right to information
- Right to consumer education
- Right to representation
- Right to healthy environment

These eight consumer rights can be used as the touchstones for assessing the consumer welfare implications of competition policy and law, and to see how they help or hinder the promotion of these rights.

**Question 11**

*Examine the following hypothetical situation and give a brief analytical note on it.*

*ABC Ltd. has been the leading scientific equipment manufacturing company in South India. But it suddenly finds that certain companies from North India that do not have anywhere near its own kind of clout in their own turfs, are trying to enter the south Indian market. But because of its superior clout, ABC Ltd coerces them to enter into agreement with itself such that they do not sell at prices above that of its own products. Please comment on the legality of such agreements. Conversely, if ABC Ltd were to enter into agreements with distributors such that the distributors are prevented from marketing the products of the North Indian companies, would that be illegal?*

**Answer**

The Competition Act, 2002 intends to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.

The Act deals with the following:

- **Prohibition of certain agreements**, which are considered to be anti-competitive in nature. Such agreements [namely tie in arrangements, exclusive dealings (supply and distribution), refusal to deal and resale price maintenance] shall be presumed as anti-competitive if they cause or are likely to cause an appreciable adverse effect on competition within India.
- **Abuse of dominant position** by imposing unfair or discriminatory conditions or limiting and restricting production of goods or services or indulging in practices resulting in denial of market access or through in any other mode are prohibited.
- **Regulation of combinations** which cause or likely to cause an appreciable adverse effect on competition within the relevant market in India.

In light of the above points, any agreement that ABC Ltd. may enter into with its competitors from North India to tie-up the price at a certain level is prohibited. Such agreements would also amount to abuse of dominant position.

Conversely, agreements with distributors preventing the latter from distributing the goods of its competitors would also be illegal since they would restrict market access and can be deemed anti-competitive.

**Question 12**

*State the objectives of the Central Consumer Protection Council in India.*

*Or*

*What are the objects of the "Central Consumer Protection Council" in relation to protection of rights of the consumers?*

**Answer**

The objectives of the Central Consumer Protection Council in India are to promote and protect the rights of the consumers such as:-

- (i) the right to be protected against the marketing of goods and services which are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods/services so as to protect the consumer against unfair trade practices;
- (iii) the right to be assured, whichever possible, access to a variety of goods and services at competitive prices;
- (iv) the right to be heard and to be assured that consumers interest will receive due consideration at appropriate terms;
- (v) the right to seek redressal against unfair trade practices;
- (vi) the right to consumer education.

**Question 13**

*Which parameters are applicable in relation to Competition Law in India?*

**Answer**

**Parameter under Competition Law in India:**

- Prohibition of certain agreements, which are considered to be anti-competitive in nature. Such agreements namely tie in arrangements, exclusive dealings (supply and distribution), refusal to deal and resale price maintenance shall be presumed as anti-competitive if they cause or likely to cause an appreciable adverse effect on competition within India.
- Abuse of dominant position by imposing unfair or discriminatory conditions or limiting and restricting production of goods or services or indulging in practices resulting in denial of market excess or through in any other mode are prohibited.
- Regulation of combinations which cause or likely to cause an appreciable adverse affect on competition within the relevant market in India is also considered to be void.

**Exercise**

1. *Mark the correct answer:*  
*Ethics are necessary in marketing because*
  - (a) *To avoid intervention by the Government*
  - (b) *To get recognition from the society*

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(c) *To build brand image*

(d) *(a) & (b) only*

[Hints: The Correct option is (d)]

2. *What is the object behind the enactment of the Competition of Act, 2002?*

[Hints: The Competition Act, 2002 intends to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto]