

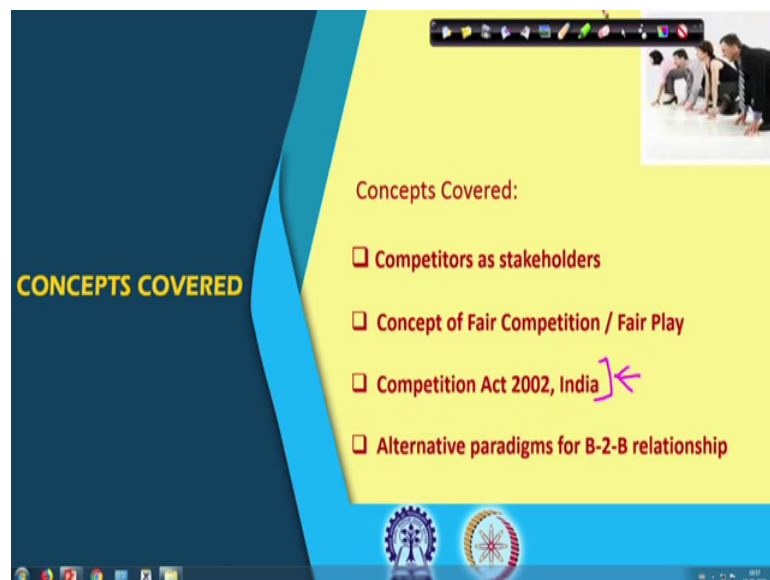
The Ethical Corporation
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Lecture – 36
Competitors as Stakeholders and Fair Competition

We are in module 8 and this is our lecture 36 and we are starting that new topic for the last week of this course. We are going to talk about two very different kind of stakeholder groups who are usually not counted and I am talking about the competitors and the suppliers.

So, our this week's material is going to be divided into two major categories. We will talk about competition and competitors and what the ethical corporation can do about the competitors and then we will take the suppliers and talk about the relationship between an ethical corporation and suppliers. So, today's topic is about Competitors as Stakeholders and we are going to introduce the concept of Fair Competition.


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So, this is on our agenda today and in order to make this point even stronger I will introduce the legal part also the competition law is there in India. So, we will speak about that it is a law that protects fair competition among businesses, among corporations. So, we will speak about that also and I will present a few alternative

paradigms for how businesses can react to each other, that is all competition need not be very harsh or unfair.

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Competition and Business

- Corporations exist in a competitive environment: Marketshare.
- Marketshare: Represents the percentage of the total sales revenue of a particular market earned by a particular company over a certain period of time.
- Market leader: The brand or the company which has the highest percentage of the total sales revenue

Aspiration: To become a market leader.

- Direct competitors: Companies producing same or similar goods. E.g. Cocacola and Pepsi.
- Indirect competitors: Companies in different sectors of the same market compete for customers. E.g. Lay's potato chips, and Britannia sliced cakes. For a quick bite.

The slide includes a pie chart labeled 'MARKET SHARE' with four colored segments (blue, red, green, yellow). A woman is visible in the bottom right corner of the slide frame.

So, first of all let us talk about the environment in which corporations work and it is a given that corporations exist in a competitive environment. This is an environment which they have it is built-in that if you are doing business there will be other people thinking like you, trying out the same product or similar product and they are known as the competitors.

The competitors in a business environment vary for market share; market share means the percentage of total sales revenue coming from a particular market which is earned by a particular company over a certain period of time. So, a company a corporation may have 20 percent market share or another company may have only 5 percent of the market share. This is the total revenue that is coming out from the certain market through sales over a certain kind of product which company has the percentage of what kind. So, the entire market is like a pie, think like a pie and market share sort of would look like this.

Obviously, the market leader is the one who has the largest share of the pie or the large highest percentage of the total sales revenue. There that is the market leader. Remember, that the competition is about this to become the market leader. The aspiration of each company who is competing is trying for a slightly larger and larger market share that is

the nature of doing business. So, these are competitors those who are vying for market share at the same time.

Competitors can be direct when companies are selling the same or similar items. So, for example, I have given an example in the soft drinks of beverage segment Coca Cola and Pepsi they are direct competitors. We can think about in toothpaste market you know Colgate and Pepsodent products are direct competitors. But, there can be also indirect competitors. These are companies in different sectors of the same market I mean you are not exactly selling the same or similar product. But, in the say in a way you are you are working in the same segment of the market.

For example: Lay's company is selling potato chips, and Britannia has sliced cakes. The chips and the cakes are not exactly the same, but they vie for the same segment where customers are looking for something for a quick bite. So, in a way there is competition. This is indirect competition; obviously, direct competition is more strong and they are the ones that business first look at, but our point is somewhere else.

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Business competitors: As stakeholders

- Can they affect organizational objectives? YES! ✓
- Are they affected, i.e. harmed or benefited, by business activities? YES! ✓
- Therefore, they are also **stakeholders**, that a business needs to consider.

Competitors are the **"forgotten" stakeholders** (Spence, L.J, A.M. Coles, and L Harris et al, 2000)

If they are stakeholders, then the relationship between Corporation and its competitors has an ethical quality.

- Does the competitor have any **moral claims**? Yes. E.g. : Right to privacy, right to fair competition

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We are looking going to look into this through the lens of stake holders. First of all, are the competitors stake holders? If you recall the definition given by Freeman about stakeholders then we can ask this question can they affect an organizations objectives? And, the answer is yes. You know competitors and their behaviour certainly are going to

affect a corporations objectives also that is how you make your strategies that is why you make your plan your sales and so on.

And, are they are the competitors affected or someway positively or negatively by business activities? Again, the answer is going to be yes ok, in the same market you can understand direct competitors clearly even indirect competitors. So, what corporation A does it affects it is competitors, just as what the competitors do that affect corporation A. So, it fits into the definition of the stake holders, when they are stake holders then we will talk about the moral or ethical relationship between the competitors because stake holders as you know they have rights and there are duties towards them.

What is special about these group competitors is that they are often the forgotten stake holders. Typically, when stake holders being counted you can remember immediately the employees or more immediately about the customers the investors are important stake holders, but people forget that competitors also are stake holders. But we are going to bring that issue in forefront and we will talk about whether and how we can bring in ethics in the relationship between competitors because there will be the claim that an ethical corporation has certain duties towards its competitors and competitors also have certain duty towards the other corporations.

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Fair competition: Fair Play

FAIR | PLAY

- Fair competition: A healthy competition for something that all the competitors cannot have. Competition can be fierce, but need not necessarily be unfair.
- Fair competition between corporations: Where competing corporations openly compete on equal terms, and same rules and conditions apply to all the competitors. Competitors do not abuse their power to harm one another, and do not adopt unfair means to win.

Fair competition among businesses has several advantages for the consumers:

1. Lower prices for consumers ✓
2. Increased choices for the consumer ✓
3. Improvement in product, innovation for the business ✓
4. Better quality of service for the consumer ✓

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Along this line, I will introduce the idea about fair competition fair competition. So, what is this fair competition? In simple form it is fair play. You can play in many ways, but we

are talking about the fair play. So, a competition when its fair first of all it has to be healthy competition ok. So, that there are no underhand practices, there are no behind the scene activities, but we are talking about a healthy race. So, everybody who is participating in the race they know that everybody cannot be the winner right. So, there is going to be a fierce fight for the first position the winning position, but even when you are trying to win the race it need not be won unfairly that is the point.

So, fair competition is one where open the competition is open and on equal terms. If you are talking about corporations, then the competing corporations are on equal terms and the same rules and conditions apply to all of them. It is not that one of them gets a special advantage or special handicap over the others; it is not that some of them try to abuse their power to harm the other competitors, to sabotage their race and adopt unfair means. So, there are many no's here in fair competition. In fact, I will speak about what is not fair practice or what is not fair competition in my next lecture, but this lecture is about fair competition.

So, this is what I mean by fair play or fair competition among corporations. You have to understand that when there is a healthy competition among the businesses. The real beneficiary is of course, the consumers because it helps to lower the price you know when you have many competitors trying to woo, to win over the customers the prices are advantageous for the consumers.

The consumers get more than one choice multiple choices this is when we see that the business is trying to excel by through innovation because that is your USP over the competitors and clearly that translates as better quality for the consumer. So, the consumer is actually winner if there is healthy competition. So, in consumers interest there should be healthy competition or a fair competition.

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Examples of Fair Competition

- Jamshedji Tata: Advanced the notion of fair competition (Sivakumar, 2008).
- He did **not** believe in cutthroat competition: Goods produced by his textile mills were subjected to excise duty, whereas the textiles produced by millions of handloom weavers, his competitors, did not attract any duty.
- While Jamshedji admitted competition from handloom weavers, he did not take any step to extend the excise duty to them. He allowed them to keep the competitive advantage in the name of fair competition (Harris, 1958).

Historical example of fair competitions are many, but I am going to sight somebody from India and this is Jamshedji Tata who you know is a business magnet, but he was also a very different kind of a individual. Before he came to Jamshedpur before that he was actually into textile in the business of textiles and this is when we come to know through people who have written his biography that he did not believe in cutthroat competition. So, this is what I am talking about.

Competitions can be in various ways this is one kind of competition where each competitor is after the throat of the other one, win at any cost. Now, Jamshedji Tata apparently did not believe in that. The items that he produced in his textile mills were subjected to excise duty which means that the profit percentage were less compared to his competitors who were handloom weavers. There were many but, they were the handloom weavers. He is a mill owner and these are handloom weavers and they were exempt from all such excise duty.

Now, you have to understand that Jamshedji Tata builded lot of influence. He could have easily set it up in such a way that the duty would also extend to his competitors which would become a deterrent for them and he would have the textile mills would have a slow entry into the market and win over the entire market, but Jamshedji Tata did not choose that. He did not want the handloom weavers to suffer from the excise duty. He

allowed them to keep the competitive advantage because he believed in fair competition. This is what the biographers of Jamshedji Tata has written.

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Competition Act 2002, amended Act 2007

• In order to create a fair competition environment for businesses in the liberalized market, India has a Competition Law. Its objectives are:

1. To deter practices that are harmful for competition ✓
2. To promote and sustain competition ✓
3. To protect the consumer interest ✓
4. To ensure the freedom of other traders to carry on their businesses. ✓

Competition Commission of India (CCI): Was established in 2002 to stop anti-competitive practices, and abuse of power by the market leaders.

Competition Appellate Tribunal (COMPAT): Created in 2007 by Amendment of Competition Act. To adjudicate the appeals against the order of CCI.

Competition Commission of India

The legal support as I was saying that in order to create the fair competition environment among the businesses many countries adopt a certain legal regime. These are known as competition laws to deter anti-competitive practices. We are talking about unfair competition to stop those many countries have adopted anti-competitive laws or competition laws and anti-trust laws.

The objectives are very clear. I told you that if we have healthy competition then the winners are consumers. So, one of the reason is to protect the consumer better, but there is also the sole objective to deter those practices which are harmful for fair competition ok, to promote fair competition, to sustain fair competition and to ensure that everybody in the business can carry on their business because sometimes competition can go to a point where you block all your competitors from entering the market. So, that is not healthy.

In India we had Competition Act, 2002 implemented to with this kind of objectives to protect the consumers and to discourage and prevent the other harmful practices which come in the way of fair competition. So, with that law the Competition Commission of India or CCI was established in 2002 specifically to as I said to stop the anti-competitive

practices and this is one of them one of those such practices when the market leader start to abuse their power.

Market leader I explained already, those who have what dominant players in the market those who have the higher or the largest percentage of the market share and when they start to exercise their power to prevent or block or chase away the competitors, the market suffers and the competition also suffers.

So, with that there was this along with the Competition Commission of India came the Competition Appellate Tribunal, COMPAT. This was created because when the Competition Commission of India in deitz some business as anti-competitive. They should get a fair chance to appeal to explain their situation or to defend their situation, where would they make such appeals? So, in order to allow the chance this also body was created the COMPAT in 2007.

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Competition Act, India

- With Companies Act 2013, the COMPAT is now dissolved. Its powers are now vested with the **National Company Law Appellate Tribunal (NCLAT)**: To adjudicate the appeals made in response to the CCI orders.
- CCI is the regulatory body for prevention and regulation of anti-competitive practices.

E.g. Anti-competitive agreements : Agreement or contract among the businesses (competitors) to restrict competition.

Anti-competitive monopoly : Economic power concentrated in one hand

Motto of CCI: **Fair Competition for Greater Good.**

WELCOME TO NCLAT
National Company Law Appellate Tribunal

However, in when there was companies act was implemented which is in 2013, because of the changes in companies act the COMPAT was dissolved and then it is power were vested with National Company Law Appellate Tribunal or in short NCLAT. It is an appealing body where appeals can be made in response to the CCI orders. Competition Commission of India is a body which has a website and you can visit that website to know more about this. But, I will just mention few things about it.

It is the regulatory body in India for prevention and regulation of anti competitive practices among businesses. There are documents available in the website which you can look up to see that there have been recent adjudication of certain cases on anticompetitive cases. They particularly are specially sensitive about the anti-competitive agreements that businesses can do.

Sometimes the competitors can get together and make certain agreements; we are talking about the phenomenon called price fixing. I will explain this in my subsequent lecture when I talk about the unfair practices, but this is artificially fixing the price by the competitors, so that they get the benefit of the market and they usually the price is fixed as an at an abnormally high or unusually high point to maximise their own profit. So, to stop this kind of practices CCI is the body. The motto of CCI you can see fair competition for greater good. So, this is what we already have.

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Anti-trust Laws

These are competition laws that regulate the conduct of corporations for an equitable distribution of economic power to protect the consumers and to promote fair competition.

Some recent cases dealt by CCI, India:

- (a) Alleged cartelization in **Flashlight market** in India (Eveready, Panasonic, Jeep, etc), 2018: Price fixing
- (b) Against Becton Dickinson India, and Max Superspecialty Hospital, Paharganj, Delhi: Alleged abusive conduct of the hospital to force its patients to buy products only from their in-house pharmacy once they are admitted in the hospital. 2018.

भारतीय प्रतिस्पर्धा आयोग
Competition Commission of India

Now, there they have tried this competition laws mainly, so that as I said; one, primary objective is to allow fair competition among the businesses so that businesses can run smoothly; the second one is to protect the consumers. In the website of CCI you will be able to find the cases that they have passed their judgement on. So, there are many such cases and then even their judgement is recorded along with this. For example, in 2018 there was a case of price fixing allegation of price fixing in which they looked into the

flash light segment where several companies apparently were alleged in engaged in fixing the price. So, it is an active body regulatory body.

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Different ways to do work with other businesses

- Business to business relationship: Need not be based always on competition. May work together **as an ecosystem**: A network of interdependent entities. From the perspective of Sustainability paradigm, this makes more sense. **Circular economy** ← *Regenerative cycles*
- **Industrial ecosystem** (Allenby 1993): Just like natural ecosystem. A network or community of many organizations, which are interdependent parts of a system. They feed off each other, and give and take resources from each other. They are united by various resource and waste sharing, while lessening their environmental impact.

The diagram illustrates a circular energy system. It shows a central 'Regional heating energy system' with four components: 1. District heating, 2. Individual heating, 3. Electric heating, and 4. Additional wood heating. This system is supported by 'Local renewables' (1, 2, 3, 4) and 'Local waste matter and waste energy' (1, 2, 3, 4). The system leads to 'Reduced external inputs' and 'Reduced greenhouse gas emissions and unused wastes'. A woman's video feed is visible in the bottom right corner of the slide.

Now, having said that that there is this law, there is this concept of fair competition let me show you another kind of doing business. So, every competition or just because you are you are in an environment where there are other businesses it need not be ending into a bitter and extremely distorted kind of competition. Take a look at this. This is an alternative idea of which has been promoted and practiced also that from business to business relationship can be also like an ecosystem.

You know I am sure you understand what an ecosystem is and it has many kinds of elements many kinds of elements, but it is a network. There is a symbiotic relationship among the elements of an ecosystem. Now, if we put that thought in here then we are talking about that the even the businesses in the business environment though they are different can form a network as interdependent entities. So, from the perspective of sustainability this paradigm is actually going to make more sense. If everybody cooperates the system is a winner.

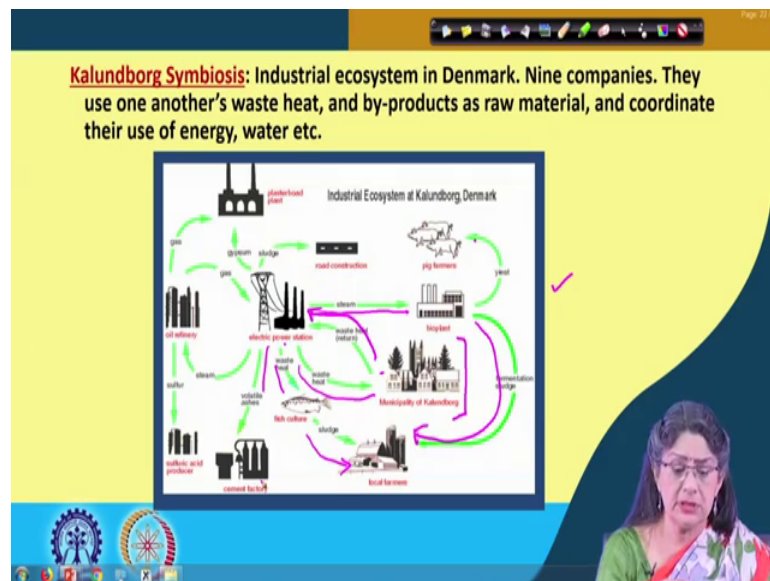
Now, these days we hear a lot about the different kind of economy, circular economy, which is an alternate paradigm to the conventional economy of trading, selling and so on. The circular economy is about regenerative economy. So, we are talking about

regenerative cycles and systems, circular economy. Similar to this circular economy idea the this is the paradigm that has been proposed by Allenby industrial ecosystem.

We just talked about ecosystem, so, similarly there can be industrial ecosystem. Just like natural ecosystem this is a network or a community of businesses many organisations, but they are inter dependent and linked they feed of each other and they give and take resources from each other; the waste of one becomes the material for the other. So, and together as a collective they minimize their environmental impact ok.

This is a small sort of a chart just to give you an idea about how this industrial ecosystem work you. If you want you can read up more on industrial ecosystem, but let me show you an actual example of industrial ecosystem.

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This Kalundborg is a place in Denmark and this is where people speak about the actual practice of an industrial ecosystem. What you see here is a network of nine companies. Here is the municipality of Kalundborg, people actually live there and around them there are various kind of businesses. Here is a power station, here is an oil refinery, this is the plaster board plant, here is a cement factory, here is a factory that produces sulphuric acid and here is a bio plant, there are farmers who are business man they rear pigs so, here is a pig farm. So, there is this so many companies.

Now, please take a look into this chart if you can see it closely that they give and take resources from each other. For example, the electric power station produces steam and the steam goes to bio plant and used by the bio plant. The bio plant on the other hand sends it is fermentation and sludge to the local farmers for growing their crop. The power station sends it is waste heat to fish culture, the sludge goes to the local farmer again as fertilizer. Here you see the power station gives waste heat to the municipality of Kalundborg in return Kalundborg uses it and the waste heat again in goes back to the power station. The ashes produced from the power station, goes to a cement factory.

So, you see this is not an isolated business and these are all working in the same business environment. And, but at the same time they do not exactly engage in fierce competition with each other instead they have developed a model where each one is dependent on another in terms of a reciprocal relationship and they use their resources in such a way that if you look at the overall system, you will find that their environmental impact is much lesser than usual.

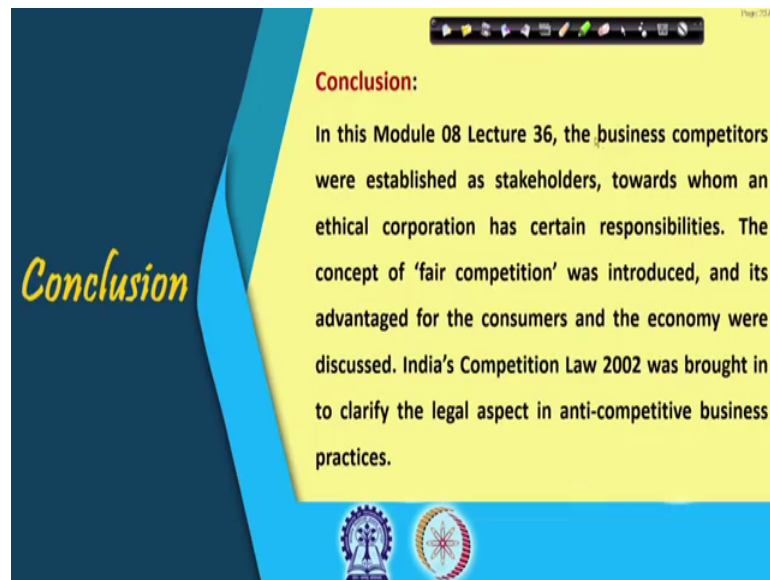
So, there is co-ordination, there is co-operation and there is also understanding that this is how everybody prospers including the community that sits right in the middle of so many companies. So, this is I what I wanted to suggest also that a fair competition or business to business relationship can be seen in a very different sort of a light.

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So, with that I am going to end this lecture here today.

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Conclusion

Conclusion:

In this Module 08 Lecture 36, the business competitors were established as stakeholders, towards whom an ethical corporation has certain responsibilities. The concept of 'fair competition' was introduced, and its advantaged for the consumers and the economy were discussed. India's Competition Law 2002 was brought in to clarify the legal aspect in anti-competitive business practices.

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We will speak about competitors and competition more in our next lecture.

Thank you for being with me.