

Intellectual Property Rights, And Competition Law
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Lecture - 13
Abuse of Dominance Combinations

Dear students today we are going to discuss Abuse of Dominance and Combinations as part of our Competition Law class.

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- Concept of Competition Law
- 1. Anti-competitive Agreements
- 2. Abuse of Dominance
- 3. Regulation of Combinations

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And in the last class we discussed about the Anti-Competitive Agreements.

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WHAT IS ABUSE OF DOMINANCE

- Dominant position means the position of strength enjoyed by an enterprise that enables it to act independently of competitive forces prevailing in the relevant market.
- Such an enterprise will be in a position to disregard market forces and unilaterally impose trading conditions, fix prices etc.
- Such abuse may result in restriction of competition or the elimination of effective competition.

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And today, we will discuss in detail, what is abuse of dominance and also the other areas of the Competition Law. And, you may have heard about the abuse of dominance, but what is this abuse of dominance actually? And abuse of dominant position is basically the strength enjoyed by any enterprise, any corporate enterprise which enables them to act independently in the market and also to influence the market.

And these enterprise position is to disregard other market forces in order to eliminate all kind of competitions. So, these business enterprises, use their market power to eliminate the competition from the market, then they will be abusing the dominance in market.

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ABUSE OF DOMINANCE

- Various forms of abuse:
- Price fixing
- Imposing discriminatory pricing
- Predatory pricing
- Limiting supply of goods or services
- Denial of market access

And we can see this abuse of dominance in various forms; which is price fixing, nondiscriminatory pricing practices; predatory pricing, limiting supply of goods and services in the market which will make a scarcity in the market; then denial of market access like refusal to deal.

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ABUSE OF DOMINANCE

- Elements that constitute the dominant position are:
- Position of strength
- Position being enjoyed in the relevant market in India – both product and geographical markets
- Such position gives the enterprise power to operate independently of competitive forces in the relevant market.
- Imposing its own trading conditions.

What do you mean by the elements that constitute the dominant position and when an enterprise, business enterprise is going to be in a dominant position in the market?

It is a position of strength accumulated in a period of time due to the technology, due to market conditions and due to certain homogenous conditions which are available in the market. And such position is enjoyed by the enterprise in the Indian market and in the product market and geographical market; both the markets. We will see later on, what is this geographical market and product market. These enterprises, these companies can act in the market irrespective of the competitive process in the market. And these companies and enterprises are a force in the market, which uses its dominant position, irrespective of the competition process in the market.

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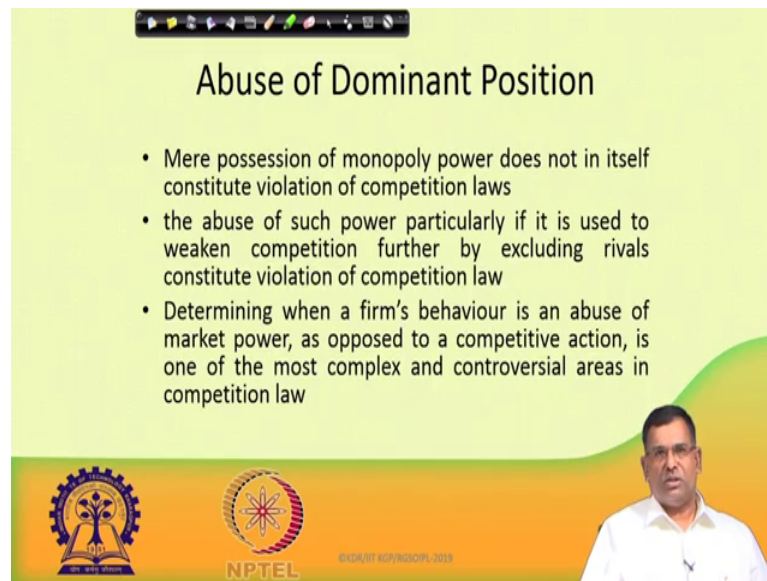
WHAT IS ABUSE OF DOMINANCE

- Abuse of a dominant position is a threat to the functioning of the free market
- A firm's ability to raise its prices is usually constrained by competitors and the possibility that its customers can switch to alternative sources of supply.
- When these constraints are weak, a firm is said to have market power and if the market power is great, the firm will be in a position of dominance or monopoly

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And also, they can impose other trading conditions which are not acceptable to others, but there is no other choice for them but to avail these services or the goods. Actually, the abuse of dominant position in the market is considered to be a threat, a strong threat to the free market. Basically, these firms have the ability to raise the prices to an unreasonable extent and can charge the customers. Also they can go for alternative source of supplies. The firms using its dominant position will affect the market forces and ultimately eliminate the competitors from the market.

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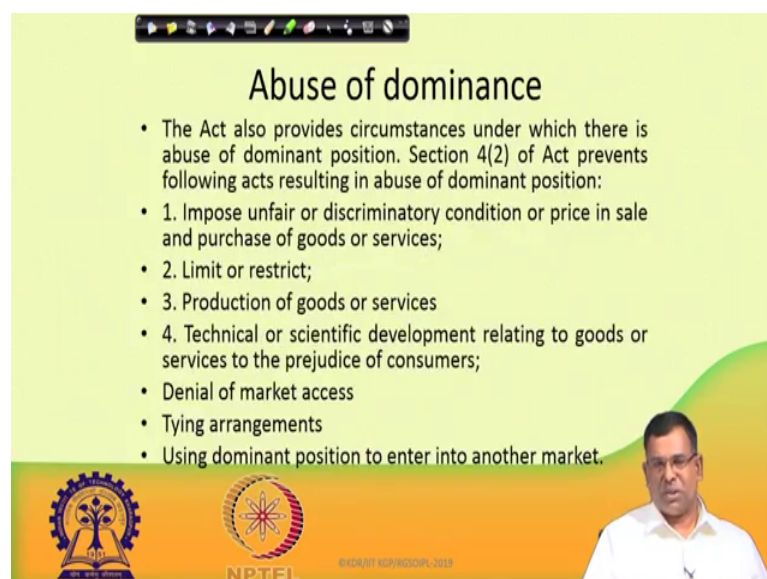
Abuse of Dominant Position

- Mere possession of monopoly power does not in itself constitute violation of competition laws
- the abuse of such power particularly if it is used to weaken competition further by excluding rivals constitute violation of competition law
- Determining when a firm's behaviour is an abuse of market power, as opposed to a competitive action, is one of the most complex and controversial areas in competition law

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The monopolization or the dominant position in the market per se is not illegal under the Competition Act; but the abuse of such position is illegal under the Competition Act. And especially when the big industrial houses or enterprise which use their market power to eliminate others from the market or eliminate competition from the market or eliminate the rivals from the market, then only it will be considered as a violation of competition law. When can such behaviour become abuse of dominance we will have to see in detail.

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Abuse of dominance

- The Act also provides circumstances under which there is abuse of dominant position. Section 4(2) of Act prevents following acts resulting in abuse of dominant position:
 1. Impose unfair or discriminatory condition or price in sale and purchase of goods or services;
 2. Limit or restrict;
 3. Production of goods or services
 4. Technical or scientific development relating to goods or services to the prejudice of consumers;
- Denial of market access
- Tying arrangements
- Using dominant position to enter into another market.

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The competition act of India under Section 4(2) prevents certain activities resulting in the abuse of dominant position. Imposing unfair and discriminatory conditions or prices in sale and purchase of goods and services, limiting or restricting production of goods and services will be considered as abuse of dominant position.

Then technical or scientific development relating to goods or services to the prejudice of consumers also will be considered as the abuse of dominant position. Then most importantly denial of market access i.e. refusal to deal; tying agreements, refusal to deal and tying agreements, using the dominant position of an enterprise to enter into another market will be considered as abuse of dominant position.

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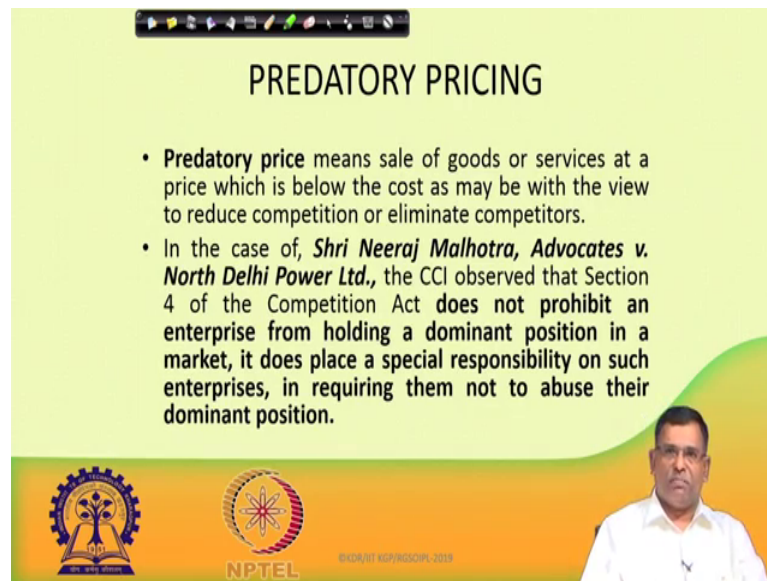


The slide features a light green background with a dark green wave at the bottom. At the top, there is a navigation bar with various icons. The title 'EXAMPLES OF ABUSE OF DOMINANT POSITION' is centered in bold black text. Below the title is a bulleted list of six items: predatory pricing, loyalty rebates, tying and bundling, refusals to deal, margin squeeze, and Exclusive Agreements. At the bottom left, there are two logos: the Indian Institute of Technology (IIT) logo and the NPTEL logo. At the bottom right, there is a small portrait of a man in a white shirt. The text '© IIT KGP/IGIPR-2019' is visible at the bottom center.

- predatory pricing
- loyalty rebates
- tying and bundling
- refusals to deal
- margin squeeze
- Exclusive Agreements

We will look into some of the examples of a dominant position. These are predatory pricing, granting loyalty rebates or allowing royalty rebates, then tying and bundling, refusal to deal, margin squeeze and exclusive agreements. All these are considered as abuse of dominant position. And we will elaborately see these one by one.

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PREDATORY PRICING

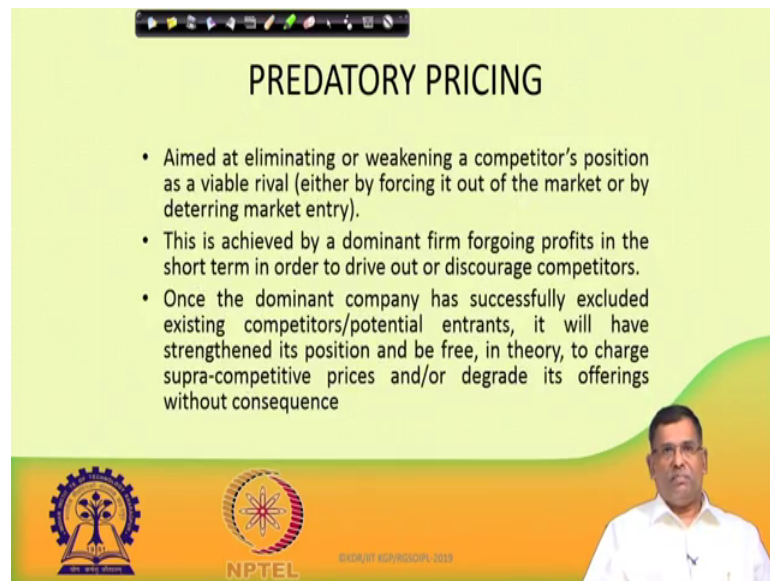
- **Predatory price** means sale of goods or services at a price which is below the cost as may be with the view to reduce competition or eliminate competitors.
- In the case of, *Shri Neeraj Malhotra, Advocates v. North Delhi Power Ltd.*, the CCI observed that Section 4 of the Competition Act **does not prohibit an enterprise from holding a dominant position in a market, it does place a special responsibility on such enterprises, in requiring them not to abuse their dominant position.**

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And predatory pricing is one of the prominent form of abuse of dominant position; it is when you reduce the prices below the cost of production in order to eliminate, in order to send out the competitor from the market. So the objective or the intention of the prominent player in the market is predatory. And predation is something which wants to eliminate the competitors from the market; so that later on they can capture the market and become more and more strong in the market.

In this particular case of *Neeraj Malhotra, Advocates versus North Delhi Power Limited*; the Competition Commission of India very clearly said that, Section 4 of the Competition Act does not prohibit any enterprises from holding dominant position in the market. So, it means that, the dominant position in the market per se is not violative of any competition law. But if they abuse their dominant position in the market, then only it is actionable under the competition law of India.

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PREDATORY PRICING

- Aimed at eliminating or weakening a competitor's position as a viable rival (either by forcing it out of the market or by deterring market entry).
- This is achieved by a dominant firm forgoing profits in the short term in order to drive out or discourage competitors.
- Once the dominant company has successfully excluded existing competitors/potential entrants, it will have strengthened its position and be free, in theory, to charge supra-competitive prices and/or degrade its offerings without consequence

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And predatory pricing is forcing somebody out of the market; because of the market conditions, because of the lower price imposed by the market major or the one who plays a dominant position in the market. So, here also we can see that the once the dominant company has successfully excluded all competitors from the market, then they can capture the entire market. So, there is a free riding in the market. So, it means that, in the initial times if the company is not making profits, once you send out all the competitors from market, the company can impose higher prices and make profits out of the market.

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LOYALTY REBATES

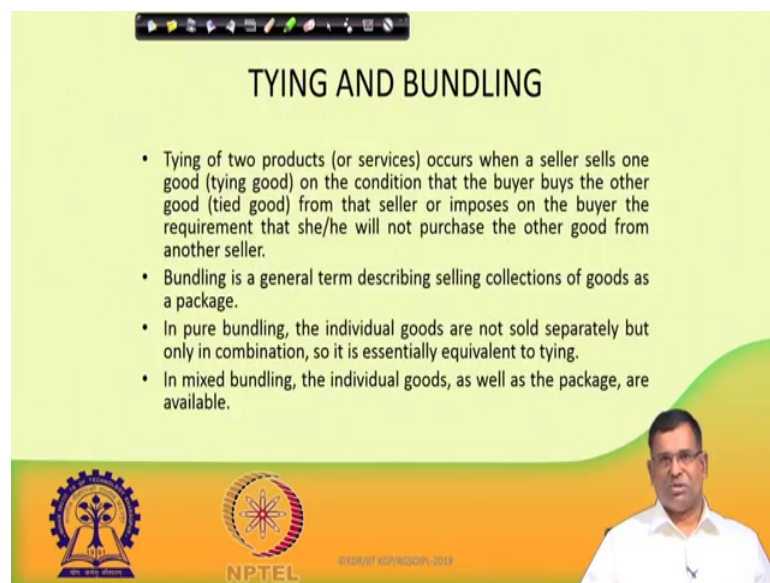
- Refund given to a customer once a threshold quantity has been purchased over a particular period can encourage customers to place all of their orders with one firm rather than split their orders amongst competing firms (effectively amounting to an exclusivity obligation in its effect).
- Such arrangements are prevalent in ecommerce market in the form of cash backs offered by companies for buying goods and services from them.
- Such cash could be used in future for buying goods or services from the same company.

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Loyalty rebates are considered to be another form of abuse of market position or abuse of dominant position. The loyalty rebates are a refund given to the customers once they pass certain threshold limit of quantity or threshold limit of the total purchase amount; so that these customers will be compelled to go to these particular suppliers. So, these loyalty rebates prevents other companies from entering into the market or prevents the customers from going to them.

So, it means that this is a kind of incentive given to the customers to go to a particular supplier, who may be a major or a prominent player, in the market. Such arrangements are basically very much prevalent in the e-commerce market as cash back. So, cash back policies are nothing, but loyalty rebates once you avail services or purchase goods.

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The slide is titled "TYING AND BUNDLING" and contains the following text:

- Tying of two products (or services) occurs when a seller sells one good (tying good) on the condition that the buyer buys the other good (tied good) from that seller or imposes on the buyer the requirement that she/he will not purchase the other good from another seller.
- Bundling is a general term describing selling collections of goods as a package.
- In pure bundling, the individual goods are not sold separately but only in combination, so it is essentially equivalent to tying.
- In mixed bundling, the individual goods, as well as the package, are available.

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Then tying and bundling. Tying is nothing but tying of two products, i.e. one you require and another one you do not require. So, the goods and services tied with each other will be also considered as abuse of the dominant position. So, here you sell some of the product as a package which customers may require, or may not require. So, you tie a wanted product with an unwanted product and that is the tying and bundling which will be considered as abuse of dominant position.

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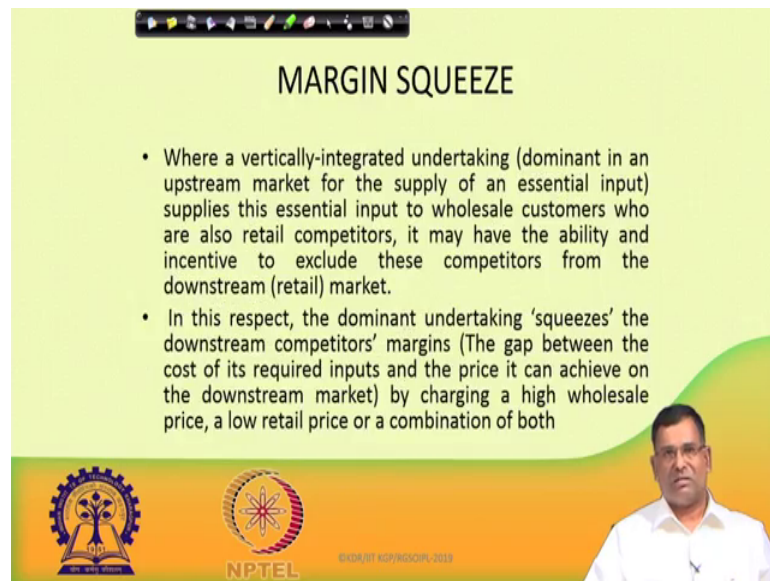
The slide is titled "REFUSALS TO DEAL" and features a list of three bullet points. At the bottom, there are logos for IIT Bombay, NPTEL, and a copyright notice for 2019. A small video inset of a man in a white shirt is visible in the bottom right corner of the slide.

- Dominant undertaking's freedom to choose with whom it conducts business may be limited where, as a vertically-integrated undertaking (dominant in an upstream market for the supply/ownership of an essential input, IP right or facility), it can exploit its position in the supply of the important or 'essential' input/facility to deny rivals access (thus harming their ability to compete with the dominant undertaking in the downstream market)
- **Essential Facilities Doctrine:** Essential Facilities Doctrine states that a dominant company's refusal to supply or grant access to an essential facility that it controls amounts to an abuse of dominance.
- The essential facilities doctrine has been used to break monopolies and continues to evolve the jurisprudence.

Then, refusal to deal, and unreasonable conditions. The dominant firm have the freedom to choose or conduct the business according to their choice. In the last class we talked about the horizontal and vertical agreements and what are the type of agreements. And these vertical and horizontal agreements ultimately eliminate the competitors from the market; so that the dominant firm can charge whatever they want to charge or exploit the market beyond the competition process in the market.

In the western countries, the concept of *essential facilities doctrine* has been evolved in a period of time, where you are forced to license your technologies to a person for a limited time, for a royalty which is determined by them and it must be very reasonable royalty. So, you cannot simply refuse to deal in if you apply the *essential facilities doctrine*. And this *essential facilities doctrine* jurisprudence is evolving not only in the developed countries; but also in the developing countries like India and was applied in the *Micromax versus Ericsson* case. So, you can see that these concepts facilitates the market conditions.

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MARGIN SQUEEZE

- Where a vertically-integrated undertaking (dominant in an upstream market for the supply of an essential input) supplies this essential input to wholesale customers who are also retail competitors, it may have the ability and incentive to exclude these competitors from the downstream (retail) market.
- In this respect, the dominant undertaking 'squeezes' the downstream competitors' margins (The gap between the cost of its required inputs and the price it can achieve on the downstream market) by charging a high wholesale price, a low retail price or a combination of both

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And another is a margin squeeze. In vertically integrated undertakings there is an upstream market, downstream market, distributors and retailers. So, the dominant firm, will try to control this. The government undertaking squeezes the downstream competitor margins; that means, the gap between the cost and the price. So the achievable profit in the downstream market is very less. So, charging a high wholesale price and a low retail price or a combination of both will be considered as margin squeeze.

There is no question of competition here because you are forced to purchase this, even though there is a very limited margin in the particular products.

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EXCLUSIVE AGREEMENTS

- Requirements prohibiting a party to that contract from entering into a similar arrangement with a third party may allow a dominant company to foreclose competition in upstream or downstream markets.

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Then, exclusive agreements which we talked about in the last class. So, it is prohibiting one party to enter into a similar contracts with other competitors and third party to allow dominant company to foreclose competition in the upstream and downstream markets. So, it prevents others from entering into any kind of contract with the competitors and will be considered as the abuse of dominant position in the market.

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Monopolization

Elements of Monopolization

1. Monopoly power
2. Wilful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident

Elements of Attempted Monopolization

1. anticompetitive conduct
2. Specific intent to monopolize
3. Dangerous probability of achieving monopoly power

Elements of Conspiracy to Monopolize

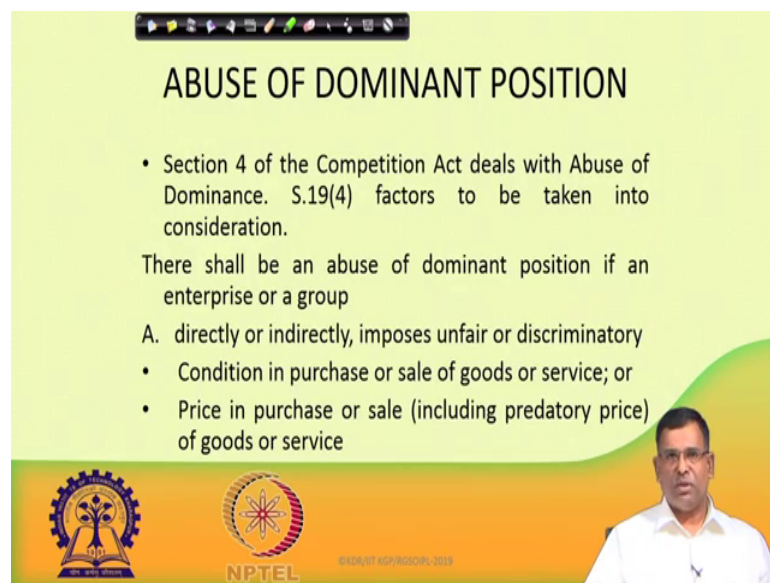
1. existence of a combination or conspiracy
2. An overt act in furtherance of the conspiracy
3. Specific intent to monopolize.

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So, monopolization can happen in many ways. The element of monopolization in the market is the monopoly power, itself. This power is acquired for a period of time due to different conditions. One important condition is the allocation of resources. The huge firms spend a lot of money for acquiring markets. Then wilful acquisition or maintenance of that particular power using superior product due to business acumen or maybe just an accident in the market.

You can see the anti-competitive conduct of these bigger firms and the elements of conspiracy to monopolize, like cartelization. So, there will be a combination of conspiracy, combination or conspiracy or agreements between different parties. All these are the symptoms of monopolization in the market.

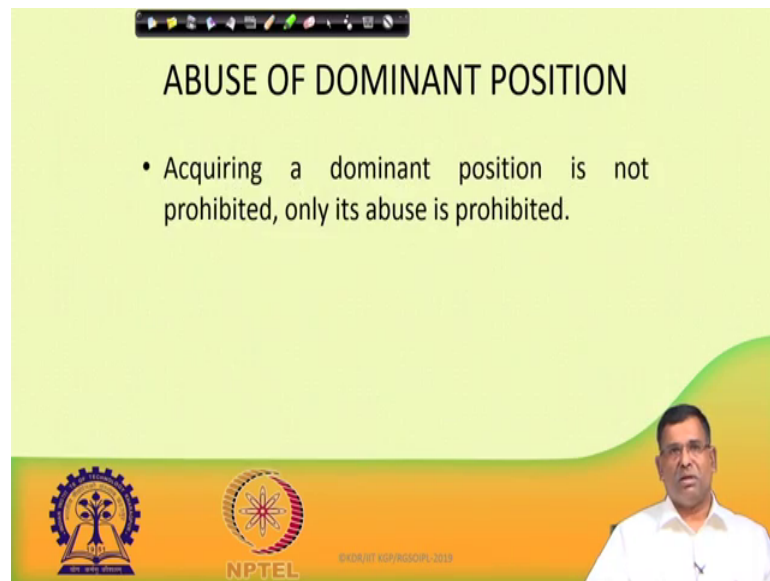
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The slide features a green and yellow background. At the top, there is a navigation bar with various icons. The title 'ABUSE OF DOMINANT POSITION' is centered in bold black text. Below the title, there is a bulleted list: 'Section 4 of the Competition Act deals with Abuse of Dominance. S.19(4) factors to be taken into consideration.' This is followed by the text 'There shall be an abuse of dominant position if an enterprise or a group' and then a sub-section 'A. directly or indirectly, imposes unfair or discriminatory' with another bulleted list: 'Condition in purchase or sale of goods or service; or' and 'Price in purchase or sale (including predatory price) of goods or service'. In the bottom right corner, there is a small portrait of a man in a white shirt. The bottom of the slide contains three logos: the Indian Institute of Technology (IIT) logo on the left, the NPTEL logo in the center, and the text '© IIT Bombay 2019' on the right.

In the Section 4 there is a connectivity between Section 19(4), which states the factors to be taken into consideration for considering abuse of a dominant position or abuse of an enterprise or a group of people. So, it directly imposes unfair or discriminatory conditions on the purchase of goods or services. Then secondly, the price or purchases or sale; that means, the price may be predatory price that may be much lower than the cost of production, in order to acquire a new market or to eliminate a competitor from the market.

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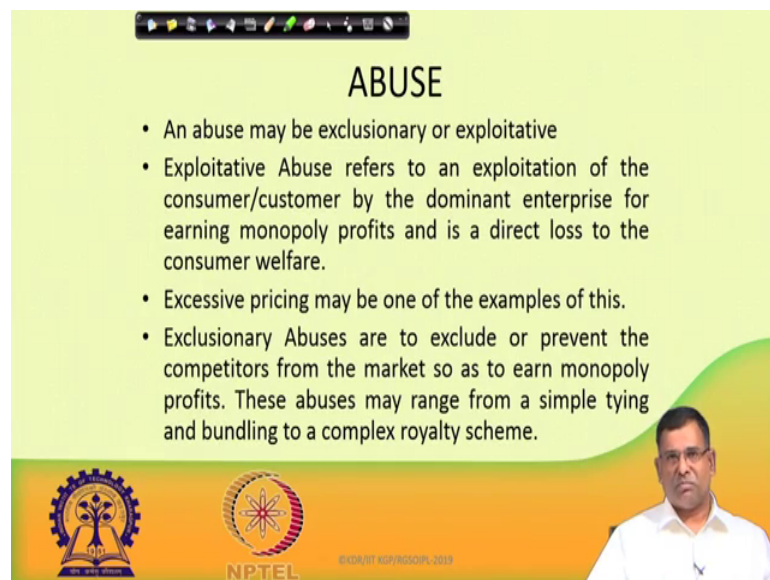
ABUSE OF DOMINANT POSITION

- Acquiring a dominant position is not prohibited, only its abuse is prohibited.

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So, acquisition of dominant position is absolutely legal under the competition law, but its abuse is actually prohibited.

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ABUSE

- An abuse may be exclusionary or exploitative
- Exploitative Abuse refers to an exploitation of the consumer/customer by the dominant enterprise for earning monopoly profits and is a direct loss to the consumer welfare.
- Excessive pricing may be one of the examples of this.
- Exclusionary Abuses are to exclude or prevent the competitors from the market so as to earn monopoly profits. These abuses may range from a simple tying and bundling to a complex royalty scheme.

The slide features a green background with a white navigation bar at the top. At the bottom, there are logos for IIT Bombay, NPTEL, and a copyright notice for ©DR. JYOTI KUPINGOOL, 2019. A small inset image of a man in a white shirt is visible in the bottom right corner.

So, the abuse of this dominant position may be exclusionary or exploitative in nature. So, exploitative abuses are basically on the consumer, exploitation of the market as such and the exploitation of the monopoly power gradually leads to monopoly profits, exorbitant profits which directly affects the consumer welfare. So, these are absolutely prohibited

under the competition law; and excessive pricing may be one of the main reason of the abuse of or considered as one of the main category of abuse of dominant position.

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- There must be an effect on trade between Member States' implies that there must be an impact on cross-border economic activity involving at least two Member States.
- This requirement is independent of the 'relevant geographic market definition'

It has an effect on the interstate trade as well. So, there must be effect on trade between member states, implies that impact on cross border economies. And now in a globalized world this can, not only happen within a single economy or a single market, single geographical market it can happen in many geographical markets, many parts of the world, because they are integrated; now the world is integrated with international trade. So, this relevant geographical market definition is very relevant for considering the dominant position.

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RELEVANT MARKET

- S.2(r) - Relevant market means the market which may be determined by the Commission with reference to the relevant product market or the relevant geographic market or with reference to both the markets.

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Section 2(r) defines what is the relevant market? So, the relevant market means the market which may be determined by the commission with reference to the relevant product market or to the relevant geographic market. It is not with regard to the whole market, but where that particular product has a dominant position or whether such a firm is using its power to have an absolutely dominant position in a particular market.

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RELEVANT MARKET

- For determining the dominant position of an undertaking, it is necessary to determine 'relevant market'
- **Relevant Product Market:** A relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use.
- **Relevant Geographic Market:** The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighbouring areas.

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So, this relevant market we have already talked about, there can be a product market or geographical market. So, the product market comprises of the products, services which are regarded as interchangeable or substitutable in nature. That is the product market. And the geographical market is the relevant geographical market, the area in which the concerned undertakings are involved in the supply and demand of the products and services. So, geographic market is very specific in nature and in cases where interchangeable products are available.

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The slide features a light green background with a dark green header bar at the top containing navigation icons. The title 'RELEVANT MARKET' is centered in bold black text. Below the title, three bullet points define a geographical market. At the bottom, there are logos for IIT Bombay, NPTEL, and a copyright notice for 2019, along with a portrait of a man in a white shirt.

RELEVANT MARKET

- Geographical market is not merely physical territory
- Only that part of the territory where the conditions of competition for supply of goods or provision of services or demand of goods or services distinctly homogeneous and can be distinguished from the conditions prevailing in the neighboring areas.
- Uniformity of composition must be present in the geographical market.

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It is simply not the physical territory, but the only territory. The conditions of competition are severely affected by the activities of this dominant firm in this geographical market. So, the complete India may not be geographical market, but it can be a group of states or a region can be taken into consideration for this particular relevant market consideration of relevant market. So, uniformity of composition must be present in the relevant geographical market for consideration of abuse of dominant position.

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The slide is titled "RELEVANT MARKET" and contains the following text:

- Section 19(6) enlists the factors to be considered by CCI while determining 'relevant geographic market':
 1. Regulatory trade barriers;
 2. Local specification requirements;
 3. National procurement policies,
 4. Adequate distribution facilities, transport costs, language, consumer preferences, the need for secure or regular supplies, or rapid after sale services.
- Section 19(7) of the Act enlists the factors to be considered by the CCI while determining 'relevant product market':
 1. Physical characteristics or end-use of goods;
 2. Price of goods or services;

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So, the relevant market considerations are mentioned under Section 19(6). These are the factors which the Competition Commission of India is going to take into consideration: regulatory barriers, local specification requirements, national procurement policies, adequate distribution facilities, transport cost, the language, the consumer preferences, the need for secure regular supplies.

These kind of factors will be taken into consideration for considering whether it is a relevant market or not. Then the physical characteristics and end use of goods are also one of the criteria for considering the relevant factor under Section 19(6) and the prices are definitely one of the important factor.

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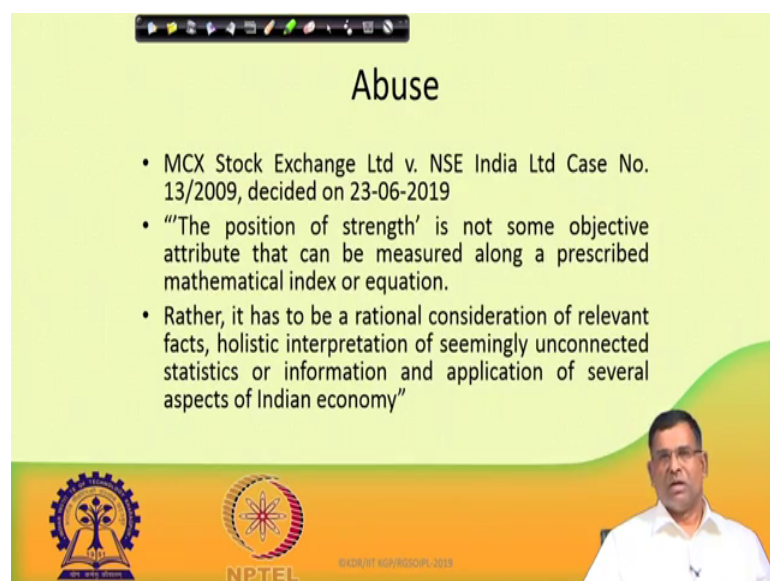
RELEVANT MARKET

- Section 19(7) of the Act enlists the factors to be considered by the CCI while determining '**relevant product market**':
- Physical characteristics or end-use of goods;
- Price of goods or services;
- Consumer preferences, exclusion of in-house production
- Existence of specialized producers
- Classification of industrial products.

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And Section 19(7) also enlists some of the factors to be considered for relevant product market. These are the physical characteristics and end use of products; then prices of goods or services; then consumer preferences, exclusion of in-house production; then existence of specialized producers; then classification of industrial product. These are relevant for consideration of the abuse of dominant position.

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Abuse

- MCX Stock Exchange Ltd v. NSE India Ltd Case No. 13/2009, decided on 23-06-2019
- "The position of strength' is not some objective attribute that can be measured along a prescribed mathematical index or equation.
- Rather, it has to be a rational consideration of relevant facts, holistic interpretation of seemingly unconnected statistics or information and application of several aspects of Indian economy"

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So what do you mean by abuse in the strength? *MCX Stock Exchange Limited versus NSE India Limited* In this particular case it was decided very recently that the position of strength in the market is not some objective attribute that can be measured along with the prescribed mathematical index or equation. So, it is not a straight jacket formula rather it has to be a rational consideration of the relevant facts mentioned under Sections 19.

And also a holistic interpretation of statistics, information, application of several aspects on the Indian economy is to be taken into consideration for the determination of dominant position and the abuse of dominant position.

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Operate independently of competitive forces prevailing in the relevant market

- Competitive forces that a seller may face are challenges from existing competitors, entry of newer competitors, or from newer rival products
- To avoid such challenges, sellers may also take measures to thwart technical and scientific development in the market. Such conduct is considered anti-competitive in nature
- It is important to examine the ability of an enterprise to operate independently of competitive forces generated by its rivals

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If independent competitive forces are prevailing in the market, then you can say that the competitive forces are available in the market or exist in the market being evidence of non-abuse of dominant position. If there is no competitive force in the market, it shows there is a dominance in the market, that means, the competitive process is absolutely absent from the market. It is an evidence of dominant position by an enterprise in the market.

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Affect its competitors or consumers or the relevant market in its favour

- This is a higher degree of strength where an enterprise may freely able to adopt price or non-price strategy to overcome downward pressures on its profits from its competitors
- To capture or bind consumers
- To create a market environment that would deter newer competition

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So, how it is going to affect consumers or the markets in favour? So, if the enterprise has a higher degree of strength and then there will be lot of pressures on the competitors as well as on the consumers. It is absolutely a loss to the consumers and the competitors will be eliminated from the market. And it may create an environment, a market situation or an environment which would severely affect, distort the market conditions and the competition in the market.

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S.4

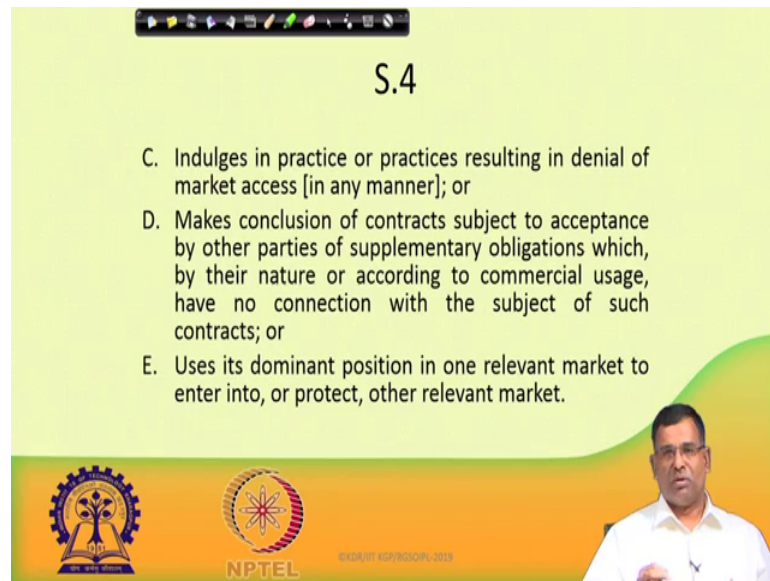
B. limits or restricts

- Production of goods or provision of services or market therefore; or
- Technical or scientific development relating to goods or services to the prejudice of consumers; or

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So, Section 4 of the Indian Competition Act provides certain limitations or restrictions. And these are the type of abuse of dominance; that means, the production, limiting the production of goods or services and markets, then preventing technical or scientific development relating to goods or services.

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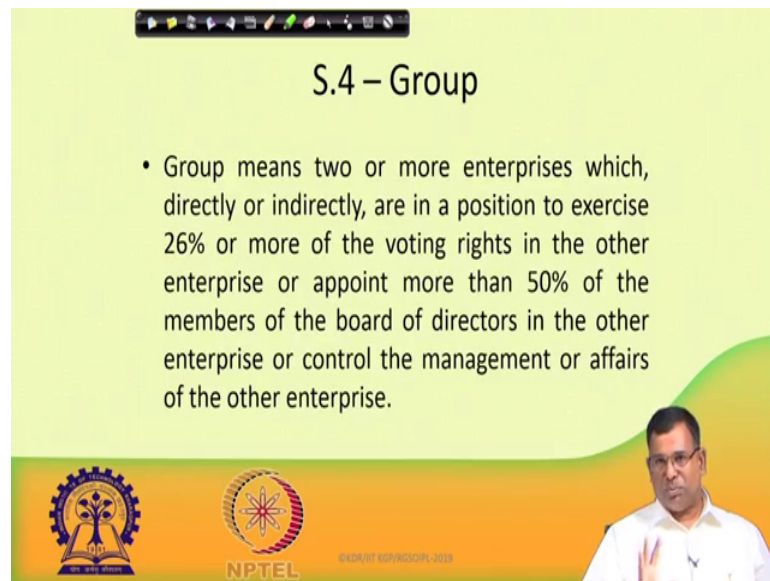
S.4

- C. Indulges in practice or practices resulting in denial of market access [in any manner]; or
- D. Makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- E. Uses its dominant position in one relevant market to enter into, or protect, other relevant market.

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And you are preventing some kind of benefits to the consumers, then indulging in practices in the access, denying the market access and then prevent entering into contracts with the competitors, constraint of trade, restraint of trade and the control of relevant market and geographical market.

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S.4 – Group

- Group means two or more enterprises which, directly or indirectly, are in a position to exercise 26% or more of the voting rights in the other enterprise or appoint more than 50% of the members of the board of directors in the other enterprise or control the management or affairs of the other enterprise.

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The group is mentioned in Section 4 of the Competition Act. It is two or more enterprises directly or indirectly, in a position to exercise 26 percent of the more of voting rights or able to appoint more than 50 percent of the members on the board of directors of the other enterprises to control the management in the affairs of the other enterprises.

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FACTORS TO DETERMINE DOMINANT POSITION

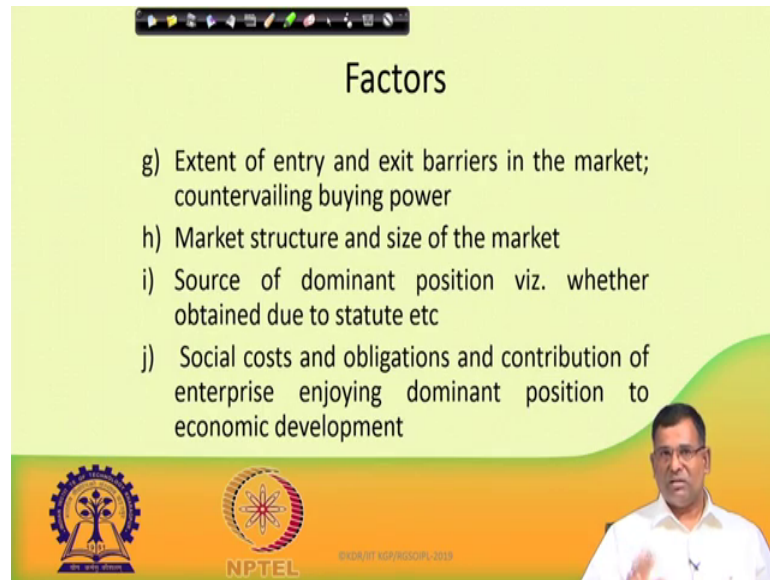
- a) Market share
- b) Size and resources of the enterprise
- c) Size and importance of competitors
- d) Economic power of the enterprise
- e) Vertical integration
- f) Dependence of consumers on the enterprise

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So, next we will discuss about these combinations. If you summarize the factors to determine the dominant position, it is definitely the market share, size and resource of

the enterprises, then economic power of the enterprise, allocation of resources, larger allocation of resources, dependence of consumers on the enterprise. All these are the factors should be taken into consideration for the dominant factor.

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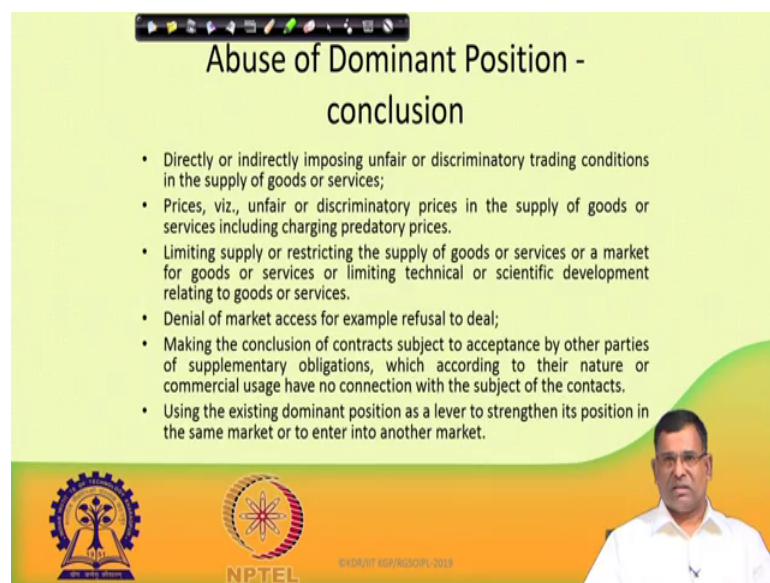
Factors

- g) Extent of entry and exit barriers in the market; countervailing buying power
- h) Market structure and size of the market
- i) Source of dominant position viz. whether obtained due to statute etc
- j) Social costs and obligations and contribution of enterprise enjoying dominant position to economic development

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And some of the other factors are the market structure and size of the market, the source of dominant position, the social factors, the social cost. There is a social cost attached with all dominant positions and those who are operating in the market.

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**Abuse of Dominant Position -
conclusion**

- Directly or indirectly imposing unfair or discriminatory trading conditions in the supply of goods or services;
- Prices, viz., unfair or discriminatory prices in the supply of goods or services including charging predatory prices.
- Limiting supply or restricting the supply of goods or services or a market for goods or services or limiting technical or scientific development relating to goods or services.
- Denial of market access for example refusal to deal;
- Making the conclusion of contracts subject to acceptance by other parties of supplementary obligations, which according to their nature or commercial usage have no connection with the subject of the contacts.
- Using the existing dominant position as a lever to strengthen its position in the same market or to enter into another market.

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So, as a conclusion we can say that, the dominant position directly or indirectly imposes unfair or discriminant trading condition, discriminatory conditions on the supply of goods or services. Then secondly, they impose prices, unfair prices or discriminatory prices on the supply of goods or services including even predatory prices; that means, the prices which are lower than the cost of production; then limiting supply supply of goods and services to the market; and also preventing the technical or scientific development relating to that particular goods or services.

Then fourthly you can see the denial of market access i.e. a refusal to deal with the other companies; even though there are prescriptions like the *standard essential patents* to deal with this kind of situations. And then making the conclusion of contracts, subject to the acceptability of the market dominant power is also considered as the abuse of dominant power; then using the existing dominant position to enter into another market. So, in toto you can see that all these activities are considered to be prohibitive in nature in a market and that is why it is known as the abuse of dominant position. And abuse of dominant position are prohibitive under the competition law.

Thank you.