1. Distinguish between competition law and competition policy. What are the components of competition policy? How intellectual property law interacts and affects the competition policy?

Ans: Distingue between competition Law and competition policy

competition Law:- The Indian competition law regime has grown considerably in the last six years ever since the Act became operational in 2009. Prior to the operationalization of the Competition Act in May 2009, MRTP Act was the operational law that regulated certain aspects of competition. This Report discusses the legislative history of the Competition Act and analyzes salient jurisprudential trends in competition law enforcement in India since the First Report. This Report is divided into nine parts. Part I of this report deals with the trend analysis of cases brought before the Commission. Part II of this Report deals with the evolutionary history of competition law in India. Part III focuses on MRTP Act, Part IV of this report focuses on the competition law framework envisaged under the Competition Act. Part V and Part VI of this report discuss anticompetitive agreements and abuse of dominance, respectively. Part VII and Part VIII of this report discuss trends in the enforcement of the Competition Act till date and relevant decisions/orders passed by the Commission and COMPAT. Part IX of this report summarizes some of the international trends in competition law jurisprudence. This Report also includes an annexure that provides illustrative details of orders passed by CCI since the First Report, up to May 2015 in respect of anticompetitive agreements and abuse of dominance (i.e., orders in relation to matters under Section 3 and Section 4 of the Act).

competition policy:-

Competition puts businesses under constant pressure to offer the best possible range of goods at the best possible prices, because if they don’t, consumers have the choice to buy elsewhere. In a free market, businesses should be competitive with consumers as the beneficiaries.

Sometimes companies try to limit competition. To preserve well-functioning product markets, authorities like the Commission must prevent or correct anti-competitive behaviour. To achieve this, the Commission monitors:

- agreements between companies that restrict competition – cartels or other unfair arrangements in which companies agree to avoid competing with each other and try to set their own rules
- abuse of a dominant position – where a major player tries to squeeze competitors out of the market
- mergers (and other formal agreements whereby companies join forces permanently or temporarily) – legitimate if they expand markets and benefit consumers
- efforts to open markets up to competition (liberalisation) – in areas such as transport, energy, postal services and telecommunications. Many of these sectors used to be controlled by state-run monopolies and it is essential to ensure that liberalisation is done in a way that does not give an unfair advantage to these old monopolies.
- financial support (state aid) for companies from EU governments – allowed provided it does not distort fair and effective competition between companies in EU countries or harm the economy
- cooperation with national competition authorities in EU countries (who are also responsible for enforcing aspects of EU competition law) – to ensure that EU competition law is applied in the same way across the EU.

Components of competition policy:- There are a few components (segments) of competition policy. These components can be considered as general methods of implementation of competition policy. These components are:

- competition legislation enforcement
- competition policy advocacy
- competition culture development – education

Components and principles of competition policy: As to the first segment of competition policy (legislation enforcement), it is traditional, inevitable and very resource consuming, i.e., it inevitably creates a huge administrative burden on the competition authority and other institutions. This is undoubtedly the first duty of the competition authority. It should be taken into account that it should not be the only duty of the authority and that substantial resources should be allocated to the other segments of competition policy. Competition policy advocacy is a very important segment of competition policy. By effective the advocacy competition authority can influence virtually all the policies that affect competition on the domestic market. For example foreign trade policies (barriers to import), privatization and restructuring policies (breaking up of existing non-competitive market structures and prevention of the emergence of the new ones), various public policies that affect barriers to entry for new firms, etc. These policies are the first-best policies in many cases, compared with traditional competition policy. The more resources allocated to competition policy advocacy, the more effective the advocacy and the more competition on the domestic market, hence the less need for stringent competition legislation enforcement. Development of a competition culture, i.e., education of all parties concerned regarding competition policy is a method for making the previous two segments of the competition policy more effective (although sometimes education is classified as a segment of advocacy). Increased knowledge of the parties involved, particularly creation of pro-competitive public opinion, increases the efficiency of competition legislation enforcement. Furthermore, advocacy will be more effective with widespread knowledge about the competition policy, particularly the effects of non-competitive market structures and/or behavior. The existence of pro-competitive public opinion creates the possibility for the competition authority to recruit many allies for the effort to promote and enforce competition policy/legislation.

Long - run benefits from innovation justify granting intellectual property rights (IPRs), even though free copying would yield short - run benefits because products incorporating the intellectual property could be priced close to marginal cost.

On the other hand, IPRs can unduly restrict “secondary” innovation or reduce incentives for further innovation. Competition agencies are generally reluctant to second - guess the appropriate breadth of IPRs, and they have not usually interfered with unilateral decisions by IPR holders about their pricing and licensing policies. Competition agencies are more likely to intervene when IPR holders that are actual or potential competitors cross license one another, or when IPR holders adopt licence terms having the effect of increasing the scope or duration of their statutory protection. Licenses may nonetheless be accepted if competition will be greater with the licence, despite its restrictions, than with no licence at all.

2. Define trade secret. Distinguish it from the confidential information.