



# CCI – NLUD COMPETITION LAW MOOT 2018

16<sup>th</sup> – 18<sup>th</sup> February, 2018

Organised by NLU Delhi  
in collaboration with  
Competition Commission of India

# National Law University, Delhi

National Law University, Delhi is a premier law university in India established by the National Law University Act, 2007 (Delhi Act No. 1 of 2008), at the initiative of the High Court of Delhi. The mandate and vision of the University is to create a legal education centre of global standards that will compete with the best outside India and to prepare lawyers for a legal career that introduces them to a wide range of opportunities in the profession across the globe. Legal education in India has undergone a paradigm shift in the last two decades and the University has played a key role in shaping these changes while preparing students, teachers and young advocates for emerging challenges and to solve existing ones with a clear vision and most importantly, instilling a belief that it could be achieved.

The University has hosted several international and national conferences and moot court competitions on newly emerging areas of law to be the pioneer in developing the jurisprudence for these subjects. To this end, NLU Delhi has successfully organized several moots in the past, including South-Asia Rounds of Oxford Price Media Law Moot Court Competition, India Rounds of ICC Trial Moot Court Competition and Vis Pre-Moot. The University has gained a reputation for its impeccable quality in organization of these events.

# Competition Commission of India

Competition Commission of India (CCI) is a regulatory body established by the Government of India with effect from 14<sup>th</sup> October 2003. The duty of the Commission is to carry out the objectives enumerated under the Competition Act, 2002 that prohibits anti-competitive agreements, abuse of dominant position by enterprises and regulates combinations (acquisition, acquiring of control and M&A), which cause or are likely to cause an appreciable adverse effect on competition within India. The broad objective of the Act is to create and sustain fair competition in the economy that will provide a 'level playing field' to the producers and make the markets work for the welfare of the consumers.

To this end, the mandate of the CCI includes eliminating practices having adverse effect on competition; inspiring businesses to be fair, competitive and innovative; promotion and sustenance of competition; protection of the interests of consumers and ensuring freedom of trade in the markets of India.

To achieve its objectives, the Commission engages in wide-ranging advocacy programmes. These include conducting training sessions for judicial officers and district judges, organizing panel discussions and conferences on issues in competition law, offering internship opportunities to students and also organizing national level essay writing competition.

# CCI-NLUD Competition Law Moot

Competition Law is an emerging field of law and its robust enforcement becomes a prerequisite for ensuring that the economic environment remains competitive and business deals adhere to the principles of fair competition and do not distort the market. Law schools can play a significant role in this regard by nurturing the growth of the subject through their curricula and other events, and also suggesting appropriate reforms to law. To this end, the Competition Commission of India (CCI) has selected NLU Delhi in the panel of seven institutions for carrying out initial competition assessment of economic legislations/ bills referred to CCI. With the aim of fostering quality research and debate on anti-trust matters, NLU Delhi, in collaboration with the CCI is organizing the 1<sup>st</sup> CCI-NLUD Competition Law Moot.

The Moot shall be based on the memorial elimination format. The top twenty-four (24) teams from universities all over India shall be selected to plead before eminent judges from the bar, bench, regulatory authorities, academia and industry in February 16-18, 2018. The venue for the oral rounds will be National Law University, Delhi.

# Organizing Committee

**Competition Administrator:** Prof. (Dr.) Harpreet Kaur, Professor of Law, National Law University, Delhi

**Student Coordinator:** Yash Kumar, V Year, National Law University, Delhi

## Members:

- Anushka Sachdev, V Year, National Law University, Delhi
- Kudrat Agrawal, V Year, National Law University, Delhi
- Nikhil Kumar Singh, V Year, National Law University, Delhi
- Aaditya Arora, IV Year, National Law University, Delhi
- Anshul Agarwal, IV Year, National Law University, Delhi
- Archit Gupta, III Year, National Law University, Delhi
- Ipsita Pallavi Sahoo, III Year, National Law University, Delhi
- Tushar Kant, III Year, National Law University, Delhi
- Aditya Mittal, II Year, National Law University, Delhi
- Anant Sangal, II Year, National Law University, Delhi
- Ayush Baheti, II Year, National Law University, Delhi
- Threcy Joboy Lawrence, I Year, National Law University, Delhi

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# Rules

## 1. Definitions

- a) Advanced rounds: It refers to the Quarter-finals, Semi-finals and Final rounds of the Competition
- b) Memorial: It means the written arguments submitted, on behalf of both the Parties, according to the official Competition rules by each team. Memorials may also referred to as *written pleadings*.
- c) Memorial Evaluators: It refers to the evaluators who will be responsible for marking the memorials submitted by the teams.
- d) Oral rounds: It refers to a team's pleadings, comprising of both speakers, submitted orally in front of the judges on behalf of one of the parties against another team representing the opposing party.
- e) Parties: It refers to the parties to the dispute as identified by the moot problem as Informant/ Petitioner/ Appellant/ Applicant/ Plaintiff and Respondent/ Defendant.
- f) Preliminary rounds: It refers to the Oral Rounds which will take place before the Advanced Rounds of the Competition for the purpose of determining the teams which will proceed to the Advanced Rounds.
- g) Raw Scores: The aggregate of the memorial scores and the oral round scores in the round will constitute the Raw Scores of a team for a specific round.
- h) Round Points: For every round, every team will be evaluated on two aspects: memorial score and score in the oral rounds.

The memorial of every team will be scored by two (2) Memorial Evaluators. The memorial score of a team as marked by each Memorial Evaluator will be compared against the memorial score of the other team by the same Memorial Evaluator. The team which receives higher memorial score will be awarded one and half (1.5) round points per evaluator.

Similarly in the oral rounds, the scores given by a Judge in a Preliminary Round to a team will be compared against the score received by the other team from the same Judge, and the team with the higher score will be awarded three (3) round points per judge. The preliminary rounds will be presided over by two (2) judges.

- i) Rules: Rules mean these official Competition Rules and any applicable supplements to these Rules published by the Competition Administrator.
- j) Scouting: Scouting is the act of attending a round in which the members of the team or any person related to the team are not competing.
- k) Team code: Team code refers to the unique number allotted to each participating team for the purpose of this Competition.

## **2. Eligibility**

All students enrolled in a 3 year LLB programme or a 5 year integrated LLB programme shall be eligible to participate in the CCI-NLUD Competition Law Moot. However, only one team per university/institution shall be eligible to participate.

## **3. Team Composition**

The team composition shall be as follows: 2 Speakers & 1 Researcher.

#### 4. Registration

Registration for the "CCI-NLUD Competition Law Moot will" open on **10<sup>th</sup> September 2017**. The last date for registration shall be **11:59 PM, 1<sup>st</sup> October 2017**.

A unique Team Code will be assigned to each team for the purpose of the Competition after the registrations for the Competition have been completed.

The registration fee for the Competition is ₹2,000 that has to be paid either through the online portal or through a Demand Draft. Further details about payment can be found in **Annexure - III**.

The following documents shall be submitted by the teams at the time of registration via an email to [ccinludmoot@nludelhi.ac.in](mailto:ccinludmoot@nludelhi.ac.in):

- a) Duly filled registration form with the signature of the head of the institutions/departments (**Attached in Annexure - I**)
- b) Certificate stating that the participants are bona fide students of the institution (**Attached in Annexure - II**)
- c) Scanned copy of Demand Draft of registration fee/Receipt of online payment.

#### 5. Assistance to a team from other team(s) or third parties

Teams are not permitted to receive any assistance towards preparation of memorials or arguments from any third parties, including teachers, alumni, students etc. Any team found getting assistance from third parties shall be immediately disqualified.

Further, in the event of collusion between two or more teams, all concerned teams will be subject to immediate disqualification.

## **6. Release of Problem and Clarifications**

The Moot Problem will be released on **10<sup>th</sup> September 2017**. Clarifications can be sought till **11:59 PM, 6<sup>th</sup> October 2017**.

## **7. Rights over the memorials**

The Competition Administrator reserves the right to disseminate and reproduce the memorials for the purpose of the Competition. Submission of memorials in this Moot will constitute the consent of the teams to such dissemination and reproduction.

The Competition Administrator will not be responsible for any mistakes that are a part of the memorial.

## **8. Memorial Rules**

### *A. Format*

- a) Each participating team is required to prepare a memorial for each party to the dispute with the following mandatory heads:
  - i. Cover Page
  - ii. Table of Contents
  - iii. Index of Authorities
  - iv. Statement of Jurisdiction
  - v. Statement of Facts (not exceeding 2 pages)
  - vi. Issues Raised
  - vii. Summary of Arguments (not exceeding 2 pages)
  - viii. Arguments Advanced (not exceeding 12 pages)
  - ix. Final Submission/Prayer (not exceeding 1 page)

- b) Teams shall cite authorities in the memorial using footnotes following the **4<sup>th</sup> Edition OSCOLA** style.
- c) The Cover Page of each memorial must contain **only** the following information:
- i. The Team Code in the upper right corner of each memorial
  - ii. The name of the forum resolving the dispute
  - iii. The name of the Competition
  - iv. The Cause Title
  - v. The party for which the memorial is prepared
- d) Participating teams have to submit four (4) sets of hard copies for each side of the memorials to the Competition Administrator by 5:00 PM, 7<sup>th</sup> December 2017. In addition, the participating teams are advised to carry hard copies of memorials for their personal use, which are excluded from the 4 sets already submitted in accordance with this rule. The hard copies should be addressed to 'Prof. (Dr.) Harpreet Kaur, National Law University Delhi, Sector 14, Dwarka, New Delhi'.
- e) All teams shall also send one copy of the memorials in .docx format (Microsoft Office 2013 or Microsoft Office 2010) as well as .pdf format to [ccinludmoot@nludelhi.ac.in](mailto:ccinludmoot@nludelhi.ac.in) on or before 11:59 PM, 1<sup>st</sup> December 2017 with the subject line as '**Memorials for <Team Code>**'. All four files (two .docx and two .pdf) should be submitted through a single mail.
- i. Memorials submitted twelve (12) hours *i.e.* after 11.59 AM, 2<sup>nd</sup> December 2017 will not be accepted and shall be disqualified from the Competition.
  - ii. A memorial once submitted will be considered final, and cannot be revised.

- iii. In the scenario where any memorial is sent in late (in separate e-mails), the penalty for late submission imposed on the latter memorial will be imposed on both the memorials equally.
  - iv. In addition to the above-mentioned rule, the penalty for sending aforementioned documents in separate emails will also be imposed on both the memorials, as under Rule 8.B.
- f) It is the responsibility of each participating team to ensure that the electronic copies of the memorials:
- i. Can be opened with Microsoft Office 2013 or Microsoft Office 2010 (.docx format) and Adobe Acrobat Reader 9 (.pdf format).
  - ii. Are named according to the team code and the party for which the memorial is proposed. (For instance, Team 01 will name its attachment as 01\_P and 01\_R where P is petitioner/plaintiff/applicant/appellant/claimant and R is respondent/defendant respectively.)
- g) The memorial also includes the headers, footers, page numbers and headings.
- h) All parts of the memorial shall be typed on A4 sized paper/format, with the following mandatory Formatting Specifications:
- i. Font Type: Times New Roman
  - ii. Font Size: 12
  - iii. Line Spacing: 1.5
  - iv. Margins: 1 inch on each side
  - v. If a quotation to any source from outside the memorial exceeds 50 words, the quotation should be block quoted (left and right indented) and single spaced.
- i) For footnotes, the Formatting Specifications are:
- i. Font Type: Times New Roman

- ii. Font Size: 10
  - iii. Single Spacing between lines
  - iv. Margins: 1 inch on each side
  - v. Speaking footnotes or endnotes are not allowed.
- j) The memorials shall be spiral bound. The following colour schemes should be followed for the cover page of the memorial:
- i. Petitioner/Plaintiff/Applicant/Appellant/Claimant – BLUE
  - ii. Respondent/Defendant – RED
- k) The memorials shall not contain any annexure, photograph, graph, diagram or any other representation of like nature.

**B. Penalties**

- a) Any memorial violating any of the specifications mentioned under Rule 8.A will be penalized according to the following scheme:

<b>S. No.</b>	<b>Criterion</b>	<b>Penalty (each side)</b>
1.	Late submission of Memorials (both hard copies and soft copies)	(-) 1 mark each, for every hour after the deadline
2.	Exceeding page limits prescribed in Rule (i)	(-) 1 mark per extra page
3.	Not following the format prescribed in Rules (iii), (viii) & (ix)	(-) 0.5 mark per specification per page
4.	Excluding relevant/Including irrelevant items in the Cover Page as in Rule (iii)	(-) 1 mark per inclusion/exclusion
5.	Exclusion of items mentioned in Rule (i)	(-) 2 mark per specification
6.	Submitting electronic copies of memorials in multiple emails	(-) 1 mark
7.	Speaking footnote or endnote	(-) 0.5 mark per footnote

- b) There will be a maximum cap on the penalties which are imposed for the violations mentioned in the table:
- i. For late submission of memorials a maximum of 12 marks will be imposed as penalties.
  - ii. For not following the formatting specifications prescribed in Rules (iii), (viii) & (ix) as mentioned under Rule 8.A along with speaking footnotes and endnotes, a maximum penalty of 20 marks will be imposed.
  - iii. No cap on penalties will be imposed on any specification other than those mentioned above.
- c) More than 20% plagiarism (including plagiarism between participating teams) in “Arguments Advanced” and “Summary of Arguments” shall be punishable by immediate disqualification.
- d) Appeals regarding plagiarism and penalties shall lie with the Competition Administrator and the decision shall be final and binding.

*C. Scoring criteria*

The marks distribution for the memorial shall be as follows:

<b>S. No.</b>	<b>Criterion</b>	<b>Marks</b>
1.	Application of Facts	25 marks
2.	Reasoning	25 marks
3.	Use of Authorities and Precedent	20 marks
4.	Understanding Law and Procedure	20 marks
5.	Presentation	10 marks

## **9. Anonymity**

There should be no indication of the institutions which the team represents, or the name of the members of the team in the memorials. The team must also not disclose such information during the oral rounds. The teams should also not attempt to disclose such information to the Judges, or any other person as decided by the Competition Administrator, for the entire duration of the Moot Court Competition. The violation of this rule will result in severe penalty, which may involve disqualification, as determined by the Competition Administrator.

## **10. Qualification for oral rounds**

A total of twenty four (24) teams shall qualify for the Oral Rounds of the Moot. In a situation where more than twenty four teams submit memorials for the moot, the teams with the highest memorial scores shall qualify for the Oral Rounds. The memorials scores used for this purpose will be exclusive of the penalties for formatting of the memorials, but will be inclusive of the penalties incurred, if any, for late submission.

In a situation where there is a tie for a position in the top twenty four, the tie will be decided on the basis of the following aspects of the memorials scores:

- a) Marks given for 'Reasoning'
- b) If the tie continues, marks given for 'Application of Facts'
- c) If the tie continues till this stage, marks given for 'Understanding Law and Procedure'

For teams that are tied even after considering such above-mentioned tiebreakers, all teams that continue to be tied on that position will qualify for the Oral Rounds.

## **11. Format of the Competition**

The Moot shall consist of Preliminary rounds and Advanced rounds. Each team will argue in two (2) Preliminary rounds, once on behalf of each Party. The Advanced rounds shall consist of Quarter-finals, Semi-finals and the Final rounds.

## **12. Oral Rounds**

### **A. Format**

In the Preliminary rounds, power match-up (Team 1 v Team 24, Team 2 v Team 23...) and slide match-up system (Team 1 v Team 13, Team 2 v Team 14 ...) shall be used to determine the match-ups in the first and the second rounds respectively.

In the Quarter-final and Semi-final rounds, the power match-up system shall be used to determine the match-ups.

### **B. Scoring criteria**

The teams with the highest number of wins will proceed to the Advanced Rounds from the Preliminary Rounds. The team with the higher number of Round Points in a round will be deemed to have won a round.

In case of a tie in the number of wins of two or more teams, the team with the higher number of total Round points will proceed to the Advanced Rounds. If the tie still subsists, it will be decided in the following order:

- a) On the basis of Raw Scores.
- b) On the basis of 'Reasoning in the Application of Principles'.
- c) In the unlikely event that the tie persists, the final decision will be made on the basis of a Coin Toss.

The marks breakup for the Oral Rounds shall be as follows:

S. No.	Criterion	Marks
1.	Response to Questions and Articulation	25 marks
2.	Reasoning in the Application of Principles	25 marks
3.	Use of Authorities and Precedents	20 marks
4.	Application of Facts	20 marks
5.	Advocacy Skills, Court Craft and Demeanour	10 marks

In the Advanced Rounds, the total scores on the basis of which teams will qualify will be based on memorial scores and scores in the Oral rounds. A one-third ( $\frac{1}{3}$ ) weightage will be allotted to the memorial scores of the team and a two-third ( $\frac{2}{3}$ ) weightage will be allotted to the scores in oral rounds.

C. Bench strength

The Bench for the purposes of the Preliminary Rounds shall consist of two judges. For the Advanced Rounds, there will be a three judge bench for Quarter-finals & Semi-finals and a five judge bench for the Final.

D. Communication between members of the team

During the Oral Rounds, communication between the members of a team shall be allowed, however, the same must be in a written form and must not disturb the decorum of the Court.

E. Electronic devices in the Courtroom

The participating teams are not allowed to carry or use any electronic devices, except wristwatches (no smart-watches), in the Courtroom. In case a member of a team is found using any electronic device during the Oral Rounds, the team shall incur a severe penalty which may include disqualification.

F. Scouting

Every form of scouting is strictly prohibited and shall result in disqualification of the team from the Competition. The decision of the Competition Administrator shall be final in this regard.

G. Duration

Each team will be allotted a total of forty five (45) minutes to present their arguments. No speaker shall be allowed to plead for more than twenty five (25) minutes. Each team is entitled to reserve a maximum of five (5) minutes, out of the total forty five (45) minutes, for rebuttals and sur-rebuttals.

The teams are requested to arrive to the designated Court room fifteen (15) minutes before the Round is supposed to start. In case the team is unable to report the designated Court room after ten (10) minutes of the starting of the Round, the team will forfeit the Competition and the Round will continue as an ex-parte round.

### 13. Advanced Rounds

The party to be represented by the teams in the Advanced Rounds shall be decided by way of a coin toss.

Qualification in the Advanced Rounds (from Quarter-finals to Semi-finals and so on) will be determined by win/loss in the respective Advanced Round.

### 14. Awards and Trophies

Awards will be distributed in the following categories:

A. Team

Team which wins the final round will be adjudged as the 'Winner of the CCI-Moot' and will get an amount of ₹ 75,000 along with a trophy as award. The team which secures the second place will get 'Runners-up' title and ₹ 50,000 as prize.

B. Best Memorial

Team with the highest memorial score (aggregate) will get the 'Best Memorial' prize along with a cash prize of ₹ 15,000.

C. Best Speaker

The speaker who secures the highest score (average) at the conclusion of the Preliminary Rounds will get award for the 'Best Speaker' with a cash prize of ₹ 15,000.

Note: It is necessary to argue for both the parties in order to be eligible for the 'Best Speaker Award'.

## 15. Code of Conduct

A violation of the prescribed Code of Conduct will invite sanctions which will be decided by the Competition Administrator.

- a) Teams are expected to behave in a dignified manner with other team members and the Judges/Organisers/Volunteers.
- b) Teams should not attempt to approach and influence Judges/ Administrators/ Organisers in any manner.
- c) All participants are expected to maintain the decorum of the court during the Competition and are expected to conduct themselves in a manner befitting the legal profession.
- d) The teams should not engage in any form of unethical, unprofessional and wrongful conduct during the entire period of the Competition.
- e) Participants should not consume or carry drugs/alcohol/arms & ammunitions or indulge in any immoral/illegal activity during the course of the Competition either on the NLU Delhi premises or at the accommodation provided.
- f) The participants shall also adhere to [Sexual Harassment \(Prevention, Prohibition and Redressal\) Code](#)

## 16. Exemplary Power clause

In case of any dispute arising out of the interpretation of the rules, or otherwise, the decision of the Competition Administrator in consultation with the Organizing Committee (OC) would be final and binding. The Competition Administrator in consultation with the OC will have the exclusive authority to interpret these Rules.

# Moot Proposition

1. Zion is a developing country with a large population of around 50 million. Zion is diverse in terms of language, religion and culture. Zion has been striving towards attracting investments to strengthen its economy and to build good trade relations with other nations. As markets have become increasingly competitive, business houses in Zion are focusing more and more on reinventing themselves as well as on catering to the needs of consumers. However, businesses in Zion continue to face hurdles such as lack of adequate infrastructure, unskilled workers and language barriers.
2. In 2002, Zion enacted the Zion Competition Act ("**Competition Act**") which came into force in a phased manner. The laws of Zion are in *pari materia* with the laws of India, barring the limited exceptions set out in this Proposition.
3. Zion's neighbouring country, Xenoria is largely a meat-eating country and has several meat processing and packaging units. The World Health Organisation in its recent ranking of world's health system, has ranked Xenoria at 132 and Zion at 114. Following release of this ranking, in 2016, the Government of Zion came out with advertisements on harmful effects of consumption of unhealthy food, cigarettes and liquor. Various consumer groups in Zion have been campaigning against processed meat

products, appealing to the citizens to switch to healthy alternatives. Recent market reports indicate an uptrend in the demand for vegan meat products in Zion.

4. 'Chicken Fiesta' is the oldest brand of packaged meat products in Zion. 'Chicken Fiesta' is owned by Holy-Molly Private Limited ("**Holy-Molly**") and is based out of Smallville, third largest city of Zion. Started in 1992, 'Chicken Fiesta' soon became a household name in most of the provinces in Zion. Its offerings include sausages, salami, frankfurters, and kababs. Several local newspapers have reported the phenomenal growth of 'Chicken Fiesta'. Apart from 'Chicken Fiesta', 'Ranchers', 'Moo Foods' and 'Porky Club' are other packaged meat product brands available in Zion.
5. In 2012, Sandwiched Private Limited ("**Sandwiched**") received an undisclosed amount as funding from a private equity investor. Sandwiched used this funding to devise new methods and ways to improve its competitiveness and to bring in better and more efficient processes. In 2015, Sandwiched secured patent protection over a sausage manufacturing equipment as well as the associated process. Following grant of patent protection, Sandwiched issued the following official press release –  
*"Our Company is pleased to announce that we have secured patent protection over an equipment and the associated process which will be used to manufacture sausages. We had applied for patent protection in*

*2010. This will help us tremendously in increasing our competitiveness and efficiency. We are sure that Ranchers will soon become the market leader.”*

Market share of Chicken Fiesta which had been steadily increasing, decreased by 6% in 2016. The same year Holy-Molly began looking at re-jigging its top management to bring fresh perspective into its business.

6. In January 2016, the Government of Zion came out with a policy to incentivise production and sale of ‘vegan meat products’ in Zion. Vegan meat products, vegetarian substitutes for animal meat, mimic certain qualities (texture, flavour, and/or appearance) of animal-based meat products. These products can be made from a variety of ingredients such as soy, textured vegetable protein, and wheat gluten. The policy stated that certain financial benefits and concessions will be given to vegan meat processing and packaging units in Zion. This policy decision roused interest of quite a few conglomerates.
7. VeganMax Private Limited is the largest player in Zion offering vegan meat products under the brand - VeganMax. As per its annual report for financial year ended 31 March 2016, VeganMax was employing close to 5,000 people. VeganMax products are available in most of the major retail chains and supermarkets in Zion.
8. Holy-Molly entered into a license agreement with Sandwiched for a license of the patented sausage manufacturing equipment and associated process. The license agreement stipulated annual payment of 3.6% of the

- sales as 'usage fee' (excluding applicable taxes) by Holy-Molly to Sandwiched. Holy-Molly also buys its entire requirement of synthetic casings for manufacturing sausages and frankfurters, from Sandwiched.
9. VeganMax also obtained a license of the patented sausage manufacturing equipment and associated process from Sandwiched. The terms and conditions of the license stipulated that VeganMax would annually pay 4.2% of its sales as 'usage fee' (excluding applicable taxes) to Sandwiched.
  10. VeganMax has been trying to maximise its revenue and increase its market share by offering a variety of products such as vegan salami, vegan sausages, vegan kababs and vegan bacon. To optimise costs, VeganMax also manufactures synthetic casings which are used in the manufacture of sausages. Earlier, VeganMax used to procure synthetic casings from Jamie's Kitchen Private Limited ("**Jamie's**"). VeganMax offers its products through various retail channels. VeganMax has been deploying personnel to educate the staff of major retail chains and supermarkets where VeganMax products are sold, about the qualities and nature of VeganMax products. VeganMax's personnel also interact with customers visiting such stores to get better understanding of their preferences and choices. To ensure that all retailers charge the same amount from the consumers, VeganMax requires its retailers to not offer more than 10-15% discount, depending on the product in question, on the maximum retail price ("**MRP**") mentioned on the packets.

11. VeganMax has recently entered into a strategic alliance agreement with Eshoppe to offer its products on Eshoppe's platform. Eshoppe, a global e-commerce behemoth, started operations in Zion in January 2012. In 2015 and 2016, Eshoppe topped the list of the 'Most Valued Top 50' companies in the world by ORBS Magazine, ranking above Frugal, the search engine giant, and Nikola, a pioneer in automotive engineering and artificial intelligence. Market reports have claimed that Eshoppe's Zionian operations have already started yielding substantial profits which contributed to its ranking.
12. Consumer Interest Association of Zion ("**CIAZ**"), an award-winning consumer oriented organisation, has been doing commendable work over the past few years. Recently, CIAZ made a representation to the Ministry of Food Processing Industries alleging that retailers in Zion are selling unbranded meat products at unreasonably high margins. The retailers, through an association, have submitted a consolidated response arguing that margins on unbranded meat products are not unreasonable given the fact that various costs such as distribution costs and marketing costs, are borne by them.
13. In January 2017, CIAZ filed an Information under Section 19 of the Competition Act alleging that VeganMax's conduct of limiting the discounts its retailers can offer on VeganMax products, contravenes the Competition Act. The Competition Commission of Zion ("**CCZ**") directed the

Director General (“**DG**”) to commence investigation into this alleged anti-competitive conduct. [**Case No.1 of 2017**]

14. In February 2017, VeganMax filed an Information under Section 19 of the Competition Act against Sandwiched alleging that (i) Sandwiched is discriminating between similarly placed players by charging different usage fees for licensing the same product, and (ii) usage fee charged by Sandwiched from VeganMax is unfair and exorbitant. The CCZ was of the view that *prima facie* there exists a case warranting investigation and accordingly, directed the DG to commence investigation into the matter. [**Case No.2 of 2017**]

15. Over the past few years, Zion has seen a boom in the e-commerce sector with investors from all over the world coming forward to invest in this sector. The steep growth of this sector has been attributed to the deep discounts offered by e-commerce marketplace players to consumers, by some market experts.

16. StraightMart, an e-commerce player, started operations in Zion in 2010, and, till date, has secured funding of USD 12 billion from Aladdin, the largest e-commerce player in the world at present in terms of revenue.

17. Patagonia, another player in the e-commerce space, has secured funding worth USD 14.5 billion from three different investors till date. Holy-Molly, an investor in Patagonia, has 4% shareholding in Patagonia along with

certain rights namely, (1) right to nominate one board member, (2) right to appoint the chief executive officer, chief technology officer, and chief operations officer, and (3) rights pertaining to business plans and commencement of new business activities. WhiteStone, one of the other two investors in Patagonia and the second largest private equity fund in the world, has also invested in StraightMart.

18. In February 2017, Eshoppe filed an Information under Section 19 of the Competition Act against StraightMart and Patagonia alleging that Patagonia and StraightMart are offering products at unreasonably low prices. The CCZ called StraightMart, Patagonia and Eshoppe for a preliminary conference. StraightMart and Patagonia argued before the CCZ that (i) products are offered at competitive prices on their platform, (ii) low pricing is not anti-competitive, and (c) low pricing benefits consumers. However, the CCZ was of the view that there exists a *prima facie* case warranting investigation.  
**[Case No. 3 of 2017]**

19. The CCZ directed the DG to investigate into all three matters simultaneously and submit a consolidated report. The DG issued notices and sought detailed responses as well as copies of relevant agreements from the alleged contravening parties.

20. During the investigation, the DG found that the agreements entered into by VeganMax with retail chains and supermarkets, have a clause specifying the maximum discount to be offered to consumers. The DG,

*inter alia*, enquired of VeganMax as to the rationale behind its dual-distribution policy and whether such a policy is likely to force retailers out. VeganMax stated in its response that its distribution policy has been tailored to suit needs of all types of consumers as well as to bring in efficacy. VeganMax also stated in its response that (i) prescribing maximum discounts that can be offered is not, *per se*, unlawful, given that it has no market power in the market for vegan and non-vegan meat products, and (ii) its pricing policies are a result of various factors including unreasonably high usage fee paid to Sandwiched.

21. Jamie's filed an application before the CCZ seeking impleadment in Case No. 2 of 2017. Jamie's application alleged that a license of the sausage manufacturing equipment and associated process patented by Sandwiched, is given only if a player agrees to source its entire requirement of casings from Sandwiched. The application alleged that Sandwiched's tie-in arrangement has severely affected Jamie's financials and has led to a 11% decrease in its market share. The CCZ directed the DG to investigate into this impleadment application along with the other connected matters.
22. The DG deposed (a) Mr. Sikesh Arora, President of CIAZ, and (b) representatives of a few supermarkets and retail chains in Case No. 1 of 2017. Mr. Arora stated in his deposition that even though none of the supermarkets or retail chains of Zion have approached the CCZ, the fact

that VeganMax's anti-competitive conduct has resulted in the consumer harm, is undeniable. Some of the representatives of retail chains and supermarkets stated in their deposition that their stores are regularly visited by VeganMax personnel.

23. In response to the notices issued by the DG, VeganMax and Holy-Molly submitted copies of license agreements as well as non-disclosure agreements ("**NDA**s") entered with Sandwicked. On perusal of these agreements, the DG found that the NDAs were executed prior to the execution of the license agreements. The NDAs required the licensees to not disclose any of the commercial terms to any other entity, even if such entity did not operate in the same industry. The DG also found that the license agreements contained a clause offering discounts in case a player opted to procure synthetic casings for sausages and frankfurters from Sandwicked.

24. Sandwicked stated in its response to the DG's notice that (i) VeganMax and Holy-Molly are not similarly placed players as they operate in different relevant markets, (ii) usage fee is based on the investment made by Sandwicked in developing the sausage manufacturing equipment and associated process, (iii) discount in usage fee offered by Sandwicked is volume-based as Holy-Molly is the biggest player in the market for meat products and also procures synthetic casings from Sandwicked, (iv) decision to charge annual usage fees was taken to ensure that the

technology is made affordable to all firms, including ones which would otherwise not be in a position to pay higher one-time fee, and (v) sausages form only a small part of entire processed meat market and consumers have the option of choosing other processed products if they feel pricing of sausages is steep.

25. The DG's notice required Sandwiched to provide the exact cost incurred in developing the patented equipment and the associated process, and details of how Sandwiched seeks to recoup this cost by charging royalty in the form of usage fee. Sandwiched did not provide the cost details to the DG and stated in its submissions that it is not possible to attribute or compute the exact cost of development of the patented equipment and the associated process.
26. StraightMart and Patagonia stated in their responses to the DG that (i) the discounts offered on their platform are not predatory, (ii) e-commerce market in Zion is dynamic, (iii) Eshoppe's conduct in resorting to litigation as a tool to stall the growth of its competitors, is anti-competitive.
27. The DG deposed chief executive officers of StraightMart and Patagonia. The DG posed specific questions on pricing strategies to both. Ms. Arundhati Mohapatra, Chief Executive Officer of StraightMart, stated in her deposition that prices at which products are sold on StraightMart are determined by algorithms. She also stated that StraightMart has invested in state-of-the-art data mining and predicting 'bots'. Ms. Chanda Kumar,

Chief Executive Officer of Patagonia, also stated in her response that pricing predictions and decisions are largely taken by algorithms and bots.

28. During deposition, the Chief Executive Officer of Eshoppe sought permission of the DG to make written submissions on the use of pricing algorithms and its impact on competition. In its submissions, Eshoppe stated that “... *pricing algorithms are complex in design and keep improvising their output by collecting data. Data is often fed by computer scientists and is also collected from open sources by the algorithm itself.*”
29. The DG also noted during the investigation that an e-commerce trade association – Ecom Trade Association, was formed in 2016 to independently look after lobbying activities on behalf of the industry. Initially started only by StraightMart, Patagonia and Eshoppe, a few other new e-commerce players have also applied for membership and some have been granted membership.
30. The DG submitted a consolidated report to the CCZ recording, *inter alia*, the following –
- (a) VeganMax has market power in ‘the market for vegan meat products in Zion’ and it has used this market power to force retailers to offer only limited discounts on VeganMax products thereby resulting in consumer harm

- (b) Sandwiched is dominant by virtue of the patents it obtained in 2015. Sandwiched is abusing this dominance to discriminate between players operating in the market for meat products (vegan and non-vegan) and by forcing players to buy synthetic casings if they wish to obtain a license of the patented equipment and the associated process. Usage fee charged by Sandwiched seems unreasonably high given that development of a sausage manufacturing equipment would not require very high investment.
- (c) Prices of products offered on e-commerce platforms of StraightMart and Patagonia are similar and there seems to be a tacit agreement between the two players. Prices at which certain products were being sold on both platforms at different points in time were moving in tandem. Further, the prediction algorithm used by StraightMart and Patagonia was developed by the same person – Mr. Larry Khosla. Even though there is no other developer who has developed similar algorithms and also acknowledging the fact that it is too costly to develop pricing algorithms, as competitors, StraightMart and Patagonia violated their obligations to behave as competitors by employing prediction algorithm developed by the same person. On the basis of 'preponderance of probabilities', it can be concluded that StraightMart and Patagonia were not competing with each other on price.

31. After receiving the investigation report from the DG, the CCZ forwarded a copy to each of the parties, and notified the parties to appear for a hearing where all three matters would be heard together.

NOTES:

1. Lawyers representing Informants and Opposite Parties are required to address the arguments that are specifically mentioned in the Proposition and are encouraged to make additional arguments.
2. Lawyers can use studies/reports pertaining to food habits across the globe as evidence in support of their arguments if required.
3. Lawyers for Informants will argue on behalf of CIAZ in Case No. 1 of 2017, VeganMax and Jamie's in Case No. 2 of 2017 and Eshoppe in Case No. 3 of 2017.
4. Lawyers for Opposite Parties will argue on behalf of VeganMax in Case No. 1 of 2017, Sandwiched in Case No. 2 of 2017 and StraightMart and Patagonia in Case No. 3 of 2017.

## Annexure I – Registration Form

### 1<sup>st</sup> CCI-NLUD Competition Law Moot

**Date:** 16-18 February 2018  
**Venue:** National Law University, Delhi,  
Sector-14, Dwarka,  
New Delhi- 110078.

Please complete the application form and return by 11:59 pm, 1<sup>st</sup> October 2017 to:  
[ccinludmoot@nludelhi.ac.in](mailto:ccinludmoot@nludelhi.ac.in)

### Institution details

**Name of College/University:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

**Email:** \_\_\_\_\_

*(Please note that each institution can register only once.)*

### Principal contact information

*(Please make sure that the information below is valid from now until the end of the Competition.)*

**Name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Mobile:** \_\_\_\_\_

**Details of the members**

**Member 1**

**First name:** \_\_\_\_\_

**Last name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Team Role (speaker/researcher):** \_\_\_\_\_

**Member 2**

**First name:** \_\_\_\_\_

**Last name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Team Role (speaker/researcher):** \_\_\_\_\_

**Member 3**

**First name:** \_\_\_\_\_

**Last name:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Team Role (speaker/researcher):** \_\_\_\_\_

*(Please note that accommodation to the teams will only be provided from morning of 16th February to morning of 19th February 2018)*

\_\_\_\_\_  
Signature and Seal of the Head of the Institution

Date: \_\_\_\_\_

**Annexure II – Bona fide certificate**

**Bona Fide Student Certificate**

**(To be issued by the head of the Institution)**

This is to certify that Mr./Ms. \_\_\_\_\_, son/daughter of Mr./Mrs. \_\_\_\_\_ is a bona fide student of the following college/university:

**Name of Institute:** \_\_\_\_\_

**Address of Institute:** \_\_\_\_\_  
\_\_\_\_\_

**Contact number:** \_\_\_\_\_

**Email:** \_\_\_\_\_

I/we certify that above information is true to the best of my/our knowledge.

\_\_\_\_\_  
Signature and Seal of the Head of the Institution

Date: \_\_\_\_\_

### Annexure III – Payments

1. A registration fee of ₹2,000 needs to be paid by every team participating in the Competition. The fee can either be paid via Demand Draft or through the online portal.
2. In case a team chooses to opt for paying through a Demand Draft, the same should be addressed to 'The Registrar, National Law University Delhi'.
3. The teams which choose to pay via the online portal should follow [this link](#) to the portal.
4. While registering for the competition, the teams will be required to attach a copy of the Demand Draft or a receipt from the online portal along with a scanned copy of the duly filled registration form.

### Step by Step Guide Through the Payment Page

**Step 1** – After opening the link for the payments page, the following page will appear. Select the 'Event' option from the drop-down list.

NATIONAL LAW UNIVERSITY, DELHI

E-Registration Form

Note : Kindly use Internet Explorer (7 to 11) or Mozilla Firefox (14 to 51) or Google Chrome (20 to 56) to fill in the Meeting Management Form. Fill in the details. Use Mouse to move.

Registration Details

Program for which you want to register

---Select---  
---Select---  
Event  
Exam  
Other Program

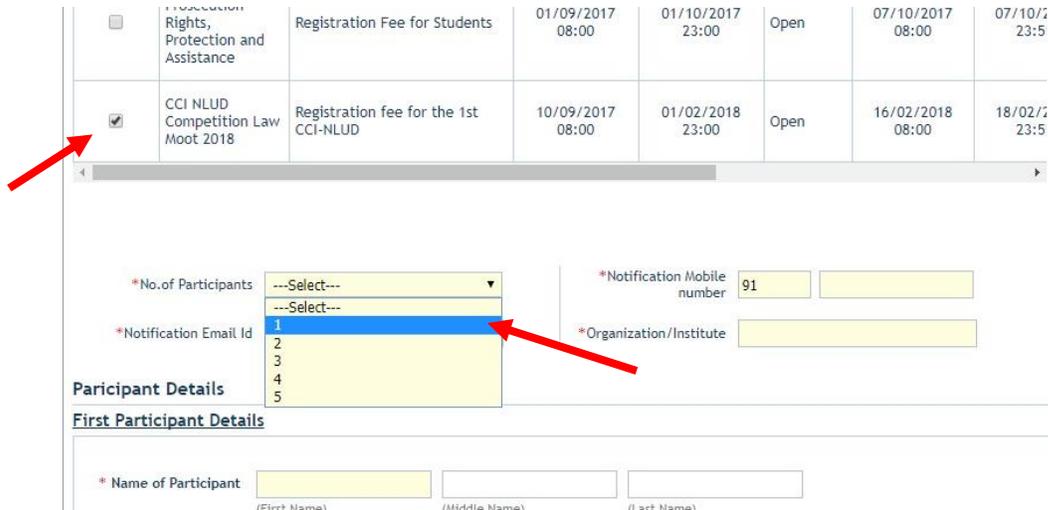
\*Notification Mobile number 91

\*Notification Email Id

\*Organization/Institute

**Step 2** – After that, a list would be displayed. Find ‘CCI NLUD Competition Law Moot 2018’ and click on the checkbox beside it.

From the drop-down list titled ‘No. of Participants’, Choose ‘1’



<input type="checkbox"/>	Protection of Rights, Protection and Assistance	Registration Fee for Students	01/09/2017 08:00	01/10/2017 23:00	Open	07/10/2017 08:00	07/10/2017 23:5
<input checked="" type="checkbox"/>	CCI NLUD Competition Law Moot 2018	Registration fee for the 1st CCI-NLUD	10/09/2017 08:00	01/02/2018 23:00	Open	16/02/2018 08:00	18/02/2018 23:5

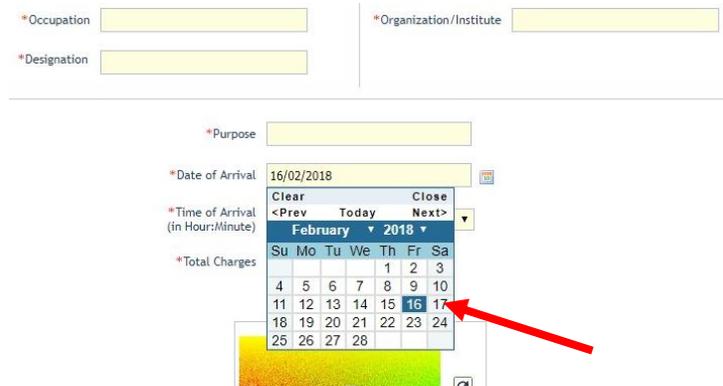
\*No. of Participants: ---Select---  
 \*Notification Email Id: 1, 2, 3, 4, 5  
 \*Notification Mobile number: 91  
 \*Organization/Institute:

**Participant Details**  
**First Participant Details**  
 \* Name of Participant:

**Step 3** – Fill in all the details that are required in the form.

In the entry titled ‘Date of Arrival’ enter the date as 16<sup>th</sup> February 2018. In the entry titled ‘Time of Arrival’, the teams are free to choose any time they wish.

(\*The details in these two entries will not be binding on the Competition Administrator and will be subject to the teams qualifying through the memorial selection.)



\*Occupation:  \*Organization/Institute:   
 \*Designation:   
 \*Purpose:   
 \*Date of Arrival: 16/02/2018  
 \*Time of Arrival (in Hour:Minute):   
 \*Total Charges:

### Annexure IV – Timeline of Events

Date	Event
<b>10<sup>th</sup> September, 2017</b>	Release of Moot Problem & Opening of Registration
<b>1<sup>st</sup> October, 2017</b>	Last date for Registration
<b>6<sup>th</sup> October, 2017</b>	Last date for seeking clarifications
<b>1<sup>st</sup> December, 2017</b>	Submission of Memorials
<b>7<sup>th</sup> December, 2017</b>	Hard-copy submission of Memorials
<b>10<sup>th</sup> January, 2018</b>	Declaration of Results of Memorial - Qualifications
<b>16<sup>th</sup> February, 2018</b>	Registration (4:00 PM)
<b>17<sup>th</sup> &amp; 18<sup>th</sup> February, 2018</b>	Oral Rounds



**CCI-NLUD**

MOOT 2018

Find us at:

Facebook – [facebook.com/ccinludmoot](https://facebook.com/ccinludmoot)

Email – [ccinludmoot@nludelhi.ac.in](mailto:ccinludmoot@nludelhi.ac.in)