



# LAW – VISION 2020

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## Moot Proposition

1. Illyria is a developing nation with a huge population of over a billion people. Despite its cultural, linguistic, political and geographical diversity, Illyria has been endeavouring to bring about reforms in its economy and make it an investment-hub on a global level. Illyria, a quasi-federal country, consists of 30 states, comprising of people from different ethnicities, religions and castes.
2. The federal legislature of Illyria enacted the Illyrian Competition Act, 2002 (“**Competition Act**”) which immediately came into force and in pursuance to which Competition Commission of Illyria (“**CCI**”) was established. The laws of Illyria, including but not limited to the Competition Act, are *pari materia* with the laws of India. CCI, in terms of the provisions of the Competition Act, is responsible for preventing practices having adverse effect on competition and to promote and sustain competition in Illyrian markets.
3. Mypos is the largest state of Illyria, both in terms of territory size and population and is the wealthiest state in Illyria. Medici, the capital of Mypos, is the financial hub of Illyria and majority of companies in the country are headquartered there. Mypos is a landlocked with three states around it *viz.* Niroli, Rogash and Lutha. Mypos also has a second capital, Norland, that is located at the exact centre of Illyria, thereby making it a lucrative destination for the logistics companies in the country.
4. In 1969, the Myposian State Legislature enacted the Mypos Manual Worker Protection Act, 1969 (“**MMWP**”) with the object of regulating the employment of unprotected manual workers employed in Mypos, to make provision for their adequate supply and to



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make better provision for the terms and conditions of their employments. In terms of the provisions of MMWP, a board has to be established at a district level that is responsible for discharging functions envisaged in MMWP. Consequently, several boards at district level came to be established, including the Medici Board and Norland Board.

5. As stated above, Norland is located at the center of Illyria and several logistics companies (“**Companies**” or “**Employers**”) have setup their warehouses within the periphery of Norland. In fact, major steel manufacturers send their finished goods, via rail from neighbouring states including Niroli, Rogash and Lutha, to Norland, from where these logistics companies transport these materials across the length and breadth of Illyria.
6. Ever since the promulgation of MMWP, the workers working at the railway sidings at Norland have been provided wages by the Employers according to the rates annually fixed by the Norland Board (“**Board**”), after due consultation with Employers/Companies, as required by MMWP.
7. With passage of time, the economy of Illyria boomed which naturally resulted in a surge in demand for processed steel in various forms. This obviously led to a heave in the movement of steel across the country. Norland, being the hub of several logistics companies, witnessed the greatest impact of this surge, in as much as 48% of steel in the country was directly or indirectly routed through Norland and the plethora of railway sidings it offered. This period also witnessed mushrooming of several new logistics companies. These new companies became the Employers for the manual workers and thus were required to pay the wages as decided by the Board.



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8. The new companies, after paying up wages for a few months, realized that the wages being paid to the workers are exorbitant and highly unreasonable and that they did not commensurate with the efforts actually put in by the workers. Thus, the Employers, under the aegis of the regional trade and industries body, Norland Industries Association (“NIA”), moved the Competition Commission of Illyria (“CCI”) and filed an Information under Section 19 of the Competition Act, against the Board, alleging that the wages fixed are unreasonable and the Board has abused its position, being the sole provider of services through the registered manual workers. CCI took cognizance of this and after conducting a preliminary hearing held that there is a *prima facie* case against the Board and consequently ordered the Director General (“DG”) to investigate in the allegations levelled against the Board by NIA, under Section 26(1) of the Competition Act.
9. DG conducted its investigation thoroughly and filed its report with the CCI, recording, *inter alia*, the following
  - (a) The manual workers at the railway sidings have statutory protection under the provisions of MMWP, as the Employers are not permitted to engage their own workers for loading/unloading work at railway sidings. In exceptional circumstances when the workers registered with the Board are not available, the Employers can bring their own workers subject to the Board’s permission, get them registered with the Board and pay them the wages equivalent to an ordinary registered worker.
  - (b) The exorbitant wages fixed by the Board do not commensurate with the minimal work that a registered worker does at a railway siding. Upon enquiry by the DG, the Board failed to describe the factors on basis which the exercise of wage fixation is undertaken by the Board annually.



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- (c) The Board charges wages on basis of quantity of steel to be loaded and unloaded and the form of steel, i.e. Hot/Cold Rolled Coils, TMT Bars, Billets, Bloom, and Sheets etc. Though these materials are always heavy with a single item weighing over a metric ton (“MT”) and thus are always lifted with the help of an automatic crane/lift, there is a stark variation in the pricing of wages for loading/unloading of these steel materials. The variation in the wages is based upon the form of steel to be handled by the manual workers as well as the weight of the material to be handled. For example, the price for loading/unloading of upto 4 MT of TMT Bars is INR. 85/MT and for TMT bars over 4 MT, the price jumps to INR 95/MT. Similarly, the price for loading/unloading of upto 4 MT of Rolled Coils is INR. 105/MT and for Rolled Coils over 4 MT, the price jumps to INR 120/MT. These amounts are exclusive of the gratuity, provident fund and other statutory payments for the workers for which the Board charges 30% levy separately. Analysis of data provided by the Board, in respect to the total wages given to workers vis-à-vis number of hours such workers worked at the sidings, revealed that each worker, on an average earned INR 52,000/month, for working an average of 45 hours/month.
- (d) The Board is also responsible for severe administrative inaction as it has failed to undertake any disciplinary action against workers who frequently go on strike, despite repeated complaints by NIA. Due to such strikes, materials are not unloaded from railway rakes/sidings, which causes the Illyrian Rail Authority to inflict demurrages and wharfages upon the Employers which often run into lakhs of Illyrian Rupees.



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- (e) The Board has also entered into separate wage contracts with certain Employers individually. These Employers, who avail services of manual workers more often than the others, are given special rates which are far lower than the rates otherwise fixed by the Board annually for an ordinary Employer.
10. The CCI took cognizance of the findings in the DG's report and after hearing all parties concerned, held the Board guilty of contravening Sections 3(1) and 4 of the Competition Act, despite the Board vehemently contesting, *inter alia*, that its existence is attributable to welfare legislation, i.e. MMWP, that its annually revised rates are identical to those fixed by the Medici Board and that its activities are not within the purview and application of the Competition Act. Thus, the CCI imposed a penalty upon the Board under Section 27(b) of the Competition Act, at the rate of three per cent of the average of the turnover for the three preceding financial years. The penalty on the Board came out to be around INR 5 Crores. This order was challenged by the Board before the newly formed National Company Law Appellate Tribunal ("NCLAT"). NCLAT, after hearing parties at length, decided to uphold the findings of the DG and the CCI, and hence rejected this appeal.
11. Consequently, the Board has now approached the Hon'ble Supreme Court of Illyria under Section 53T of the Competition Act assailing the aforesaid orders.
12. The Supreme Court will now hear all the arguments including those relating to imposition on penalties, application of the Competition Act along with all the substantive issues involved in the matter.

**(NOTE: Lawyers for both sides are expected to argue all the issues that are categorically described in the Moot Proposition. They are, however, free to make any other arguments that they deem fit. Lawyers, in fact, are encouraged to study, explore and investigate any other additional arguments pertaining to jurisdiction as well as merits of the matter.)**