



Competition Commission of India

# CLC-CCI

MOOT COURT ON COMPETITION LAW

## 2019

ORGANISED BY:

**Campus Law Centre**  
Faculty of Law, University of Delhi

in collaboration with  
**Competition  
Commission of India**

15 and 16 MARCH 2019

CAMPUS LAW CENTRE  
FACULTY OF LAW

# University of Delhi

University of Delhi is a premier university of the country with a venerable legacy and international acclaim for highest academic standards, diverse educational programmes, distinguished faculty, illustrious alumni, varied co-curricular activities and modern infrastructure. Over the many years of its existence, the University has sustained the highest global standards and best practices in higher education.

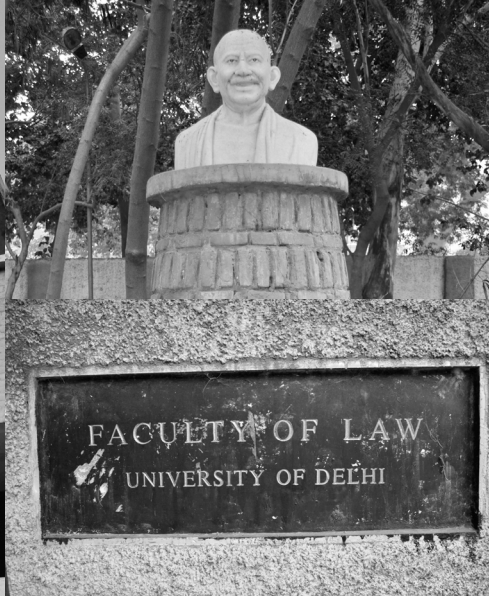
Established in 1922 as a unitary, teaching and residential University by the Act of the then Central Legislative Assembly, a strong commitment to excellence in teaching, research and social outreach has made the University a role-model and trend setter for other universities. The President of India is the Visitor, the Vice-President is the Chancellor and the Chief Justice of the Supreme Court of India is the Pro-Chancellor of the University. Beginning with three colleges and 750 students, it has grown as one of the largest universities in India with 16 faculties, over 80 academic departments, an equal number of colleges and over seven lakh students.

Over 500 programmes offered by the University are approved by Academic and Executive Councils, out of which 209 programmes are being considered for NAAC accreditation purpose.

The University today boasts of fifteen libraries other than the libraries in colleges. The University Science Instrumentation Centre (USIC), which is now situated close to the Physics and Chemistry Departments houses a number of sophisticated and high-end research instruments. The University has recently laid fiber-optic network in the North and the South Campuses connecting all colleges and departments. Drawing students and faculty from across India and abroad, the University has emerged as a symbol of excellence, integrity and openness of *mansa* (thought), *vaacha* (speech) and *karmana* (action). Its long-term commitment to nation building and unflinching adherence to universal human values are reflected in its motto: '*Nishtha Dhriti Satyam*' (Dedication, Steadfastness and Truth).







# Campus Law Centre

Established in 1924, Campus Law Centre (CLC) began as the morning classes for Faculty of Law, University of Delhi. CLC offers three-year LL.B. courses to graduates and is one of the oldest and most prestigious institutions.

Noting the growing reputation and popularity of full time day classes, it was given a distinct identity and was renamed as CLC in 1975 and Faculty of Law was to administer LL.M. and Ph.D. Programmes. A full time Professor was appointed as Professor-In-Charge to run CLC independently. Professor (Dr.) Lotika Sarkar was its first Professor-In-Charge. Professor (Dr.) Usha Tandon, an alumni of CLC, who presently occupies this position is twenty-second and twenty-fourth Professor-In-Charge of CLC.

In its 94-year legacy, CLC has maintained its reputation of producing excellent lawyers, academicians and judges. The notable Alumni of Campus Law Centre have been serving the Nation as the

Union Cabinet Ministers, Chief Justice and Judges of The Supreme Court of India, Judges and successful advocates practicing in various courts as well as lawyers in the private sector.

By virtue of offering the three-year law degree, CLC attracts a very illustrious and bright minded student population each year. The student body at the institution is one of the most diverse at law colleges, not only multi-cultural and multi-lingual but also, having different backgrounds ranging from engineers to arts and even finance graduates and even students already holding multiple degrees. It is a deep-rooted legal institution of par excellence having a glorious past and a bright future ahead.

The institution has endeavoured to adapt to the changing demands of legal education, responding by introducing not only new subjects and concepts but also adapting to socially more relevant teaching.

Qualitative teaching, moot-court competitions, campus placements, legal-aid services, regular discussions, and illustrious alumni are some of the features, which have established CLC as a Centre of Excellence. Apart from encouraging discussions and participation, CLC has focused on 'case-study' based teaching methodology, allowing the students to inculcate a deep understanding of theoretical legal knowledge along with the understanding of case-laws. Along with academics, CLC offers many co-curricular and extra-curricular activities to the students through societies. The four major facilitators for this purpose are – Moot Court Society, Legal Aid Society, Debates and Discussion Society and the Placement Assistance Council

# Competition Commission of India

Competition Commission of India (CCI) is a statutory authority established under the Competition Act, 2002 (Act).

While the CCI was established with effect from 14 October 2003, the substantive provisions of the Act came into force in a phased manner starting from 20 May 2009.

The Commission is also required to give opinion on competition issues on a reference received from a statutory authority established under any law and to undertake competition advocacy, create public awareness and impart training on competition issues.

CCI aspires to promote and sustain an enabling competition culture through engagement and enforcement that would inspire businesses to be fair, competitive and innovative; enhance consumer welfare; and support economic growth.

It is the statutory mandate of CCI to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of India.

CCI is also required to give opinion on competition issues on a reference received from a statutory authority established under any law and to undertake competition advocacy, create public awareness and impart training on competition issues.



*Competition Commission of India*





The CLC-CCI Moot Court on Competition Law, 2019 is being hosted by CLC in association with the CCI on 15 and 16 March 2019.

In nearly 10 years of enforcement by CCI, the jurisprudence has evolved and given rise to fresh debates in this flourishing area of law.

The CLC-CCI Moot Court on Competition Law, 2019 shall allow students who will soon be joining the Bar to analyse and understand this new law and its implications. With the growing applicability of Competition Law in various sectors, it is important to prepare students who can discuss, deliberate and appreciate various facets of competition law and policy.



Dear Madam/ Sir,

Heartiest Greetings from the Campus Law Centre, University of Delhi!!

It gives us immense pleasure to announce CLC-CCI Moot Court on Competition Law, 2019. The Indian Competition Law Regulator, Competition Commission of India, is jointly organising the said Moot Court Competition in association with Campus Law Centre, University of Delhi.

Competition Law, being a comparatively new law, is still evolving its jurisprudence in India. Further, with the growing applicability of complex competition law issues across various sectors in the economy, it is all the more pertinent to discuss, deliberate, argue and moot on different facets of the new law. Thus, keeping in mind the challenges of the law, the CLC-CCI Moot Court on Competition Law, 2019 aims to provide a platform to the budding legal minds to analyse and examine the challenges posed by and upon Competition Law in India.

I warmly extend an invitation to your esteemed Institution/Law School/University to participate by sending a Team in the Moot Court Competition which is to be held on 15 and 16 March, 2019.

Kindly find the Moot Proposition, Important Dates and Rules & Regulations of the CLC-CCI Moot Court on Competition Law, 2019.

Warm Regards,

Professor (Dr.) Usha Tandon  
Professor-In-Charge  
Campus Law Centre  
University of Delhi

## Teacher Members:

Prof. (Dr.) Usha Tandon  
Dr. Narender Kumar Bishnoi  
Dr. Arti Aneja  
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Prof. (Dr) Usha Tandon  
Professor in charge  
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## MOOT PROPOSITION

PG Pacedena Private Limited (“PG”),  
Qui Pacedena Private Limited (“Qui”) and  
Tam Pacedena Private Limited (“Tam”) Trade Association  
...APPELLANTS

VERSUS

Competition Commission of Pacadena (“CCP”) and  
Pacedena National Railways (“PNR”)  
...RESPONDENTS

The Republic of Pacedena is a developing country having its capital at Melhi. The laws of Pacedena are pari materia with the laws of India. As such, the date when the provisions of the Competition Act were notified in India, the very same day, those pari materia provisions were also notified in Pacedena.

PNR is Pacadena’s national railway system operated by the Ministry of Railways, Pacadena. PNR is fourth-largest railway network in the world by size; revenue of close to USD 26 billion (PR i.e. Pacadenian Rupee 1.84 trillion). It is the single largest buyer of goods and services in Pacadena (for running operations of PNR); attracting established foreign companies to participate in tenders floated by PNR.

PNR issues specifications for each good and service that it procures by means of issuing tenders, including recycled-wood tables. PNR procures only one kind of recycled-wood tables for all its railway coaches in Pacadena. Goods and services are sourced from the specific and approved suppliers only.

There are three leading recycled-wood table companies in Pacadena: (i) PG Pacedena Private Limited (“PG”), (ii) Qui Pacedena Private Limited (“Qui”) and (iii) Tam Pacedena Private Limited (“Tam”). The market share of each of them in the recycled-wood table market (pertaining to PNR) are 25%, 45% and 30% respectively. PG and Qui are multi-product companies and substantial part of their turnover is from export sales.

PG and Qui have their holding companies in UTA and

became an approved supplier of recycled wood tables to PNR in 2000 and 2003 respectively. Tam is a Pacadena based company and became approved supplier of recycled-wood tables to PNR in 2006.

The companies (PG, Qui and Tam) have been participating in tenders floated by PNR by way of a bidding system for procuring recycled wood tables. The sealed bids are submitted individually by PG, Qui and Tam. The key elements of the procurement process followed by PNR are as follows:

- These are tenders for annual procurement by PNR. The total quantity tendered annually is a sum of (1) recycled-wood tables in railway coaches as per annual production capability of railway coaches AND (2) undertaking replacement in existing railway coaches of PNR.
- PNR floats tenders and invites sealed bids/quotations from their approved suppliers of that specific good and service, to be submitted by a fixed date.
- Once all parties/ approved suppliers submit their sealed bids, PNR opens the sealed-bids (of all parties/ approved suppliers who participate in the subject tender).
- The winning bidder is chosen as a result of competitive bidding and price is discovered after opening of the bids submitted by all parties/ approved suppliers. However, in certain circumstances winning bidder is also chosen after commercial negotiations between PNR and bidding company(ies).
- There was a newspaper report in 2016 which was circulated widely in UTA that five (5) manufacturers and suppliers of recycled-wood tables (details below) may have engaged in cartel and big-rigging since 2000 in UTA.
- Based on the newspaper report, PNR conducted an internal investigation and found that two of the companies named in the UTA newspaper report participated in tenders floated by PNR for recycled-wood tables. Based on the same; PNR decided to conduct a study of price-bids quoted by PG, Qui and Tam since 2003 and reached a conclusion that aside from similar (sometimes same) prices there was substantial increase in bid-prices of recycled-wood tables submitted by PG, Qui and Tam. PNR

filed a Reference against the suppliers of recycled-wood tables to PNR in Pacedena under Section 19 of the Competition Act. The Competition Commission of Pacadena (“CCP”) took cognizance of the Reference, passed an order under Section 26(1) of the Competition Act and directed the Director General (“DG”) to initiate investigation into the matter in 2017.

- On investigation of suppliers of recycled-wood tables in 2018 and rigorous analysis for more than 9 months (which included depositions of senior management personnel of the recycled-wood table companies); the DG prepared a report and found that the suppliers of recycled-wood tables have engaged in bid-rigging in tenders for procurement of recycled-wood tables by PNR between 2000 to 2018. The key findings of the report are as under:
  1. The two recycled-wood table companies from UTA were found in violation of competition laws in UTA and penalties were imposed in 2018;
  2. The tenders were floated on an annual basis. While the prices were decided every year, the supply of the recycled-wood tables used to be once in every three months.

The price-bids submitted by all the three companies is as follows: (see tables on the following page)

Year	PG (Bid Quoted Price in PR/ table)	Qui (Bid Quoted Price in PR/ table)	Tam (Bid-quoted price in PR/table)	Tender Awarded Price in PR/ table
2000	99	-	-	88
2001	99	-	-	88
2002	120	-	-	88
2003	100	88	-	88 (Qui)
2004	88	88	-	85 (Qui)
2005	100	100	-	Tender Cancelled
2006	100	100	90	90 (Tam)
2007	100	-	100	100 (PG and TAM – equal quantity)
2008	100	75	100	75 (Qui)
2009	120	-	119	119 (TAM)
2010	119	119	119	119 (all three equal quantity)
2011	128	128	-	119 (PG)
2012	-	128	128	119 (QUI and TAM equal quantity)
2013	137	-	-	Tender cancelled
2013	137	137	137	135 (PG)

(Retender)				
2014	-	135	-	135 (QUI)
2015	-	137	137	137 (QUI and TAM – equal quantity)
2016	-	-	137	137 (TAM)
2017	137	137	137	Tender cancelled
2018	136	136	136	Tender cancelled
2018 (Retender)	135	135	-	134 (PG)

3. Cost of recycled-wood tables for each of the companies was marginally different based on place of factory for each.
  4. The average annual procurement of recycled-wood tables by PNR is around PR 78 crores.
  5. Ledger accounts of these three suppliers of recycled-wood tables evidenced commercial dealings with each other.
  6. There was also a trade association which existed since 2005 wherein all the recycled-wood table manufacturers (including the three suppliers to PNR) were members. PG, Qui and Tam used to meet at the trade association meetings. The said trade association is still operational.
  7. The prices of certain kind of recycled-wood tables by other companies of Pacadena (i.e. ANA and KDS – not eligible for PNR tenders) were also collected and their prices were in the range of PR 120/ table (from the years 2013-2016).
  8. The prices of certain kind of recycled-wood tables PG, Qui and Tam to enterprises other than PNR was also in the range of PR 112/ table to PR 130/ table (from the year 2009 to Based on the above, the DG concluded that there was an agreement between the recycled-wood table manufacturers (i.e. PG, Qui and Tam); and they have engaged in big rigging which is in violation of Section 3(3)(d) of the Competition Act, 2017 respectively).
  9. Post the DG report, an opportunity was given to all parties (including trade association) to provide their oral and written objections on the DG report. Post the objections, CCP, principally upon close examination of DG Report (under all grounds from Paras 10 (a) to 10 (j)) held that the case is made out under Section 3(1) read with sections 3(3)(a), 3(3)(c) and (3(3)(d) against the recycled-wood table manufacturers and the trade association.
- CCP notes that the infringing anti-competitive conduct of the parties pertain to cartel and bid rigging in respect of the tenders floated by PNR and

as such, for the purposes of determining the relevant turnover for this infringement, revenue from tables has to be taken into account. It may be noted that the twin objectives behind imposition of penalties are: (a) to reflect the seriousness of the infringement; and (b) to ensure that the threat of penalties will deter the infringing undertakings. Therefore, the quantum of penalties imposed must correspond with the gravity of the offence and the same must be determined after having due regard to the mitigating and aggravating circumstances of the case.

- CCP decided to impose penalty on Qui, PG and Tam at the rate of 10% of their average relevant turnover of the preceding three financial years arising out of sale of tables. The total amount of penalty is worked out as follows:

S. No.	Party	Turnover from Table 2015-2016 (in PR crores)	Turnover 2016-2017 from Table (in PR crores)	Turnover 2017-2018 from Table (in PR crores)	Average from Table (in PR crores)	Penalty from Table (in PR crores)
1	PG	150	160	170	160	16
2	QUI	120	100	90	103.3	10.3
3	TAM	65	75	80	73.3	7.3

- CCP also decided to impose penalty on trade association at the rate of 10% of their average income based (on their Income and Expenditure account) for the three preceding financial years as filed by them. The total amount of penalty is

S. No.	Party	Turnover from Table 2015-2016 (in PR crores)	Turnover 2016-2017 from Table (in PR crores)	Turnover 2017-2018 from Table (in PR crores)	Average from Table (in PR crores)	Penalty from Table (in PR crores)
1.	Trade Association	.5	.5	.5	.5	0.05



# Rules & Regulations

## INTRODUCTION

The present rules govern the procedure of the CLC-CCI Moot Court on Competition Law, 2019 (hereinafter "the Competition") which will be held on 15th and 16th March, 2019 at the Campus Law Centre, University of Delhi, North Campus, Chhatra Marg, Delhi- 110007.

## ELIGIBILITY

All students who are either enrolled in a 3-year LLB programme or a 5-year integrated LLB programme shall be eligible to participate in the CLC-CCI Moot Court on Competition Law, 2019. Only ONE team from a University/Institution will be eligible to participate in the competition. In case there is more than one registration from a particular University/Institution, the team that submits a letter from the Head/ Dean of Institution/Moot Court Committee, authorising them to participate for the competition first, will be considered eligible to participate.

## TEAM COMPOSITION

Each team shall consist of only two speakers and one researcher. The teams may choose to participate without a Researcher, and therefore consist of only two speakers. The teams will be assigned Team Codes by the Organisers.

## OFFICIAL LANGUAGE

The official Language of the Competition, including all forms of Oral and Written Submissions, shall be English.

## REGISTRATION

The registration for the Competition will open from 24 December 2018. The deadline for registration shall be 11:59 PM, 15 January 2019. The teams may register by sending in softcopy of the duly filled Registration Form along with Stamp of the Institution and Signature of the Head of the Institution to: *competitionlawmoot@clc.du.ac.in*. Upon successful completion of the registration process and submission of the Registration Form, the team will receive a confirmation email from the Organisers within 3 days of such submission, informing them about their successful registration.

Please note that incomplete registration forms will not be accepted. For successful registration, all particulars are required to be provided by the teams in the registration forms. Substitution of names shall not be permitted after the Registration Deadline.

## REGISTRATION FEE

The registration fee for the Competition is INR 4500 per team, and it has to be paid through demand draft. Registration fee shall be payable only by successful teams after announcement of 'Declaration of Results of Memorial'. The details thereof will be shared after 'Declaration of Results of Memorial'.

## MEMORIALS

### 1. General Rules

Each team shall be required to submit memorials for both the parties in doc. format. The soft copies are to be submitted on the following email address: *competitionlawmoot@clc.du.ac.in*.

The deadline for submission of the softcopy of Memorials is 11:59 PM, 20 February 2019. The Organisers will not be responsible in case the email is not received before the deadline for any reason.

- While emailing the soft copies of the memorials, the subject of the email must be 'Memorials for <Team Code>'. Both the files should be submitted through a single mail.
- The files sent, should be named as 'Applicant/Respondent – <Team Code>'
- The submissions that are received post the said time, will not be considered for the shortlisting of teams.
- Final List of Shortlisted Teams shall be declared on 25 February 2019.
- Hard copy of the shortlisted memorials should reach by 8 March 2019.
- Memorials submitted later than the given date will NOT be accepted by the Organisers.
- The teams shortlisted based on the memorial are required to submit 5 hard copies of the memorials of each party. The same shall be couriered to the following address.
- Prof. (Dr.) Usha Tandon, Professor-in-Charge, Campus Law Centre, Faculty of Law, University of Delhi, Delhi – 110007.
- It is the responsibility of the teams to ensure that correct number of copies of the memorials are submitted and acknowledgement of the same is obtained from the Organisers.

## 2. Format

- The 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 facts
  - (v) Issues Raised
  - (vi) Summary of Arguments
  - (vii) Arguments Advanced
  - (viii) Final Submission/Prayer
- While citing authorities, the footnoting style to be followed is Harvard Bluebook 19th Ed.
- The teams must mention the Team Codes allotted to them in the emails sent for submission of the soft copies. Please note that the teams SHALL NOT MENTION THE NAME OF THE PARTICIPANTS/ UNIVERSITIES/ INSTITUTIONS/ COLLEGES, OR ATTACH ANY NAME OR LOGO OF THE SAME.
- All memorials shall conform with the following requirements; failure of which will attract negative marking for the teams.
- Memorials must be printed on A4 sheets and neatly bound.
- The font of the body of the memorial should be in Times New Roman, font size 12, with
- 1.5 line spacing. The font size of the endnote/ footnote if any, must be in Times New Roman, font 10.
- Each page must have a margin of at least one inch on all sides.
- The total number of pages of memorials shall not exceed 25 typed pages for each party including the front page.

- The cover page should be printed in colour (Blue for Applicant, Red for Respondent).
- The cover page MUST contain the Team Code in the upper right hand corner of the front page.

## 3. Oral Rounds

- The first round will be shortlisting round based on the memorials submitted by the teams. Out of all the memorials submitted by the teams, 32 highest scoring teams (based on both memorials for the Plaintiff and Respondent will be considered for this.)
- The preliminary round will be a knockout round. Out of 32 teams selected for oral rounds, each team shall have to argue from both sides, that is, once for the applicant and once for the respondent.
- 8 highest scoring teams based on the marks of both side arguments will qualify for quarter-finals.
- The quarter-final round will be followed by semi-final round with 4 winning teams. Followed by the final rounds between the top 2 teams.

## 4. Scoring

- Memorial: 20%
- Response to questions & articulation: 20%
- Use of Authorities & Precedent: 20%
- Reasoning in the Application of Principles: 20%
- Application of Facts: 10%
- Advocacy skills, Court Craft & Demeanour: 10%

## AWARDS

- Winners/Best Team – Trophy and Cash Prize of Rs. 75,000/-
- 1st Runners up/Second - Best Team – Trophy and Cash Prize of Rs. 50,000/-
- 2nd Runners up/Third Best Team – Trophy and Cash Prize of Rs. 30,000/-
- Best Speaker of the Competition - Trophy and Cash Prize of Rs. 10,000/-
- Best Memorial of the Competition - Trophy and Cash Prize of Rs. 10,000/-
- The Moot Court Society of Campus Law Centre reserves the right to take appropriate action for any unethical, unprofessional, immoral conduct and uncalled for behaviour of the participants at the competition venue and accommodation.
- If any situation arises which is not contemplated by the Rules, the decision of the Organizing Committee shall remain final and binding. The Moot Court Society reserves the right to vary, alter, modify and/or repeal any provision of the Rules if so required.

## CONTACT DETAILS

For any further details, please find the contact details below:

EMAIL: [competitionlawmoot@clc.du.ac.in](mailto:competitionlawmoot@clc.du.ac.in) .

# Advisory Board



**Mr. Krishnan Venugopal**  
Senior Advocate



**Mr. Amit Sibal**  
Senior Advocate



**Mr. R. Prasad**  
Former Member  
Competition Commission of India



**Mr. Rahul Goel**  
Advocate



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**Mr. Sharad Sharma**  
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**Mr. Marc Reysen**  
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**Mr. Gianpaolo Gangemi**  
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(CMA), UK



**Ms. Tanya Tang**  
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Singapore



**Prof. Ms. Gail Pearson**  
The University of Sydney,  
Australia



Brand-CLC has its brand ambassadors shining like stars. Be proud of graduating from the glorious CLC; but remind yourselves daily to add to the prestige of your institution by making it proud of having prestigious alumni like you.

As all of you are fully aware that battles for change are fought with novel ideas and thoughts.

I appreciate that many developing countries cannot follow a conventional approach to the application of Competition/antitrust law. A part of the reason behind this is that stakeholders (including authorities) share a feeling that their countries have pressing needs that are different from those in which Competition /antitrust law originated and has a longer track record.

Towards developing nuanced resolution to the challenges posed by developing countries to Competition/antitrust law, I wish CLC (faculty and students) godspeed.

Best wishes and all the support,

R.P. Whish

Emeritus Professor of Law, QC (Hon)

**Richard Whish**

Emeritus Professor of Law  
Kings College London



# Important Dates

## Date

## Event

21 December 2018

Releasing of Moot problem

24 December 2018

Opening of Registration

30 January 2019

Last Date of Registration

Revised Date: 10 February 2019

5 February 2019

Release of Clarifications

Revised Date: 7 February 2019

20 February 2019

Submission of Memorial (Soft Copy)

Revised Date: 23 February 2019

25 February 2019

Declaration of Results of Memorial

Revised Date: 1 March 2019

5 March 2019

Final Registration (Payment of Fees)

8 March 2019

Submission of Memorial (Hard Copy)

15 and 16 March 2019

Oral Rounds

The logo features the text "CLC-CCI" in large, bold, white capital letters. Below it, "MOOT COURT ON COMPETITION LAW" is written in smaller, white capital letters. At the bottom, "2019" is displayed in large, white capital letters. The text is centered over a dark blue background. Behind the text is a large, stylized diamond shape composed of two triangles: a dark purple one on the left and a red one on the right.

# CLC-CCI

MOOT COURT ON COMPETITION LAW

## 2019

FIND US AT:



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