Competition Law of Uk and Anti-Trust Law of Usa: A Comparative Analysis

Yashodhara Pattanaik
Research Scholar, SOA National Institute of Law, Siksha O Anusandhan (Deemed to be) University, Odisha, India.

Abstract—**The major goal of both the US and UK legal systems is to protect competition in its local market and promote healthy and fair competition. Due to the disparities in size and legal procedures between the United States and the United Kingdom, there are noticeable similarities as well as contrasts in anti-competition legislation. This doctrinal research works intends to explain the comparison between the competition laws of two countries with the biggest markets of the World. In the end, it can be concluded that due to geographical politics and UK's significant connection with the rest of the Europe, the competition law sees significant influence from it where as the USA stands strong solitarily and has exercised the laws jurisdiction in some cases that happened beyond borders which could have had a serious effect on the local market. While disparities exist, the respective laws have managed to establish fair market competition is their respective territories.**

Index Terms—**Competition, Anti-Trust, Market, Law, USA, UK.**

I. INTRODUCTION

Competition law in the United Kingdom, commonly known as antitrust law in the United States, prohibits businesses from engaging in anticompetitive activities, hence fostering market competition. The law regulates large-scale mergers and acquisitions, prohibits agreements that limit free trade and competition among businesses, and prohibits abusive behavior by a market leader. Predatory pricing and buyer's power are two examples of antitrust policy violations. Companies' activities are regulated by legislation in the United States and the United Kingdom in order to limit competition and preserve fair marketplaces. Despite the fact that these laws have a similar goal, they differ in certain ways. It's worth mentioning that the antitrust law's role in preventing cartel formation in the United States is also worth noting. Despite the fact that these laws have the same goal, they differ in a number of ways. These include the role of antitrust law in preventing cartel formation in the US and the UK, the role of antitrust law in preventing monopoly and dominance in the US and the UK, the role of antitrust law in regulating mergers in the US and the UK, and legal procedures and state involvement in the US Antitrust law and the UK competition law. In terms of these features, there is also an examination of parallels and differences.

The antitrust legislation was enacted in the United States for civic and economic reasons, with the goal of fostering a democratic economy and protecting consumers from monopolistic pricing. The country would adhere to democratic self-governance and promote a healthy rivalry among enterprises if it had a decentralized economy with numerous small businesses. As courts and federal law enforcement agencies began to construe the antitrust law with a restricted focus on consumer welfare, the antitrust statute's goal became less clear. It has produced a situation in which giant corporations can utilize their market power and size to undercut smaller businesses. When small businesses have been hurt by major corporations' anti-competitive activities, they have had difficulty filing cases.

Antitrust law in the United Kingdom is influenced by both British and European aspects. Both British and European aspects influence competition law in the United Kingdom. The Competition Act was enacted in 1998 with the main goals of overseeing large-company acquisitions and mergers, prohibiting agreements that restrict free trade and competition between businesses, and prohibiting abusive behavior by a market-dominating company, all of which were consistent with other antitrust laws.

Antitrust regulations in the United States and competition rules in the United Kingdom contain striking parallels and distinctions. The form of the rules and their key responsibilities in preventing inappropriately obtaining or strengthening market dominance, which would result in prices being raised above competitive levels, are striking parallels. Both laws protect consumers from consumer exploitation and unfair competition caused by cartels, monopolies, and mergers. Certain provisions found in the UK competition act but not in the US antitrust legislation, and vice versa, are notable distinctions.

II. OBJECTIVE AND METHODOLOGY

The major goal of both the US and UK legal systems is to protect market competition. Due to the disparities in size and legal procedures between the United States and the United Kingdom, there are noticeable similarities as well as contrasts in anti-competition legislation. The objective of this research work is purely present a comparative analysis comparing the competition laws of UK and USA which is known as antitrust law in the US. While the base of most competition laws is nearly similar but still there is a clear contrast amongst the competition law of two leading countries of the world, the United States of America and the United Kingdom demanding the need for a critical study on it. The study is based on secondary data namely articles and other sources of Internet.

III. DISCUSSION

This section shall present the comparison between the two competition laws based on several themes.

i. Evolution Distinction

Although some sort of policy to govern competition in the market economy has existed throughout the common law's history, the history of antitrust law in the United States is typically thought to begin with the Sherman Antitrust Act of 1890.

There was several major corporation’s notable as trusts once upon a time, around the turn of the century. Railroads, oil, steel, and sugar were just a few of the industries that they controlled. U.S. Steel and common Oil were two of the most well-known trusts; both were monopolies that controlled both the availability and the value of their products. There was no competition because one company dominated the whole industry, and smaller businesses and individuals had little choice about who they bought from. Quality should not be a priority because expenses have risen dramatically. This put the new American prosperity at risk.

Fears of ruthless competition had been replaced by the belief that a truly competitive marketplace delivered equitable returns for everybody by the 1970s. The fear was that monopoly would lead to greater pricing, less productivity, inefficiency, and a reduction in overall prosperity. As labour unions weakened, the government focused increasingly on the harms that unfair competition could cause to consumers, particularly in terms of increased pricing, inferior service, and limited options. In the 1990s, the pace of business takeovers accelerated, but any significant organization seeking to buy another had to first receive approval from either the FTC or the Justice Department. The government frequently insisted that certain companies be sold in order for the new corporation to avoid monopolizing a specific geographic market.

During the Progressive Era, public leaders prioritized enacting and enforcing tough antitrust laws. The Sherman Act was used by Presidents Theodore Roosevelt and William Howard Taft to challenge corporations.

The ordinary populace became enraged and demanded that the made, trust-owning merchants take action as their wealth grew. By enacting what became known as antitrust laws, President Franklin D. Roosevelt busted (or broke up) several trusts. These laws were intended to protect customers by encouraging market competition.

With the EU Community Act of 1972, the United Kingdom became a member of the European Community (EC) and so subject to European competition law. The European Union has been in existence since the Maastricht Treaty of 1992 (EU).

The social and economic pillar of treaties is where competition law is found. The pillar system was abolished with the passage of the Ports Treaty, and competition legislation was included into the Treaty on the Functioning of the European Union (TFEU). As a result, wherever a British company is polishing off unfair business practices in a very combination or is attempting to merge in a way that would disrupt

competition across GB boundaries, the EU Commission can have social control powers and EU law can apply.

Only UK competition law will be enforced by UK courts and regulators following the end of the transition period. Both before and after Brexit, only domestic competition law requirements will apply. EU competition regulations, on the other hand, will continue to apply to UK business agreements and transactions that have an impact on European territory. Even under these instances, the EU Commission's investigative powers will be limited because no on-site inquiries will be permitted. It is anticipated that parallel investigations by UK and EU agencies will expand starting January 1, 2021.

Following the United Kingdom's exit from the European Union, the Competition and Market Authority (CMA) was given more leeway in selecting and applying UK competition law to matters involving a UK nexus. Because the regulator will no longer be responsible for implementing EU competition legislation, it may devote more effort to analyzing competition in local, domestic markets in the UK. This could mean that a larger number of companies get scrutinized than before. The CMA is certainly interested in Google and Facebook, as well as any possible anti-competitive behavior by those companies, such as how they economically exploit user data.

While there are drawbacks, stronger competition policy enforcement at home could potentially present a commercial opportunity. It may be simpler to bring the CMA's attention to anti-competitive behavior that is hindering the company from growing its business. It could be that exclusivity terms in leases, national dominant enterprises, or long-term supply contracts keep a company out of areas where it wants to expand.

ii. Preventing cartel formation

Cartels have been a key concern for both the United States and the United Kingdom in recent years. Cartels collaborate to stifle competition and stifle trade between countries. Antitrust laws in the United States and the United Kingdom attempt to prevent cartels and mergers that would result in unfair commerce in the economy. Antitrust laws play a critical role in avoiding cartels and collusions. The anti-collusion and anti-cartel argument[1] asserts that each business should operate freely within the economy, earning profits solely via the production of high-quality goods or services at lower prices than their competitors.

The Sherman Act, which was enacted in the United States, prohibits any arrangement or combination of corporations in the form of trusts that restricts trade and commerce. The Sherman Act is aimed at two or more businesses that conspire to injure third parties, such as other businesses and customers. The law does not apply to businesses or joint ventures that do not have significant market strength or monopoly. Because such choices take occur within a single economic entity, the Sherman legislation does not apply to businesses that have subsidiaries. The Sherman Act does not apply to joint ventures in which shareholders make choices through a new company they incorporate.

The Sherman Act identifies the various types of business agreements that may affect trade. First, all agreements between corporations that entail price fixing or market sharing are considered prohibited by the law. Second, because the Sherman Act does not seek to prohibit all types of agreements that obstruct contract freedom, it has established a rule of reason under which a particular practice may restrict commerce in a way that is advantageous to consumers. Finally, there is a challenge of proving and identifying criminal action when businesses do not establish overt agreements but appear to be working toward a common purpose.Fourth, vertical agreements raise issues about market power being exercised when enterprises and suppliers come to an agreement. This type of agreement, however, is subject to a less stringent criterion under the rule of reason.

The Competition and Markets Authority in the United Kingdom is dedicated to enforcing anticompetitive legislation in the UK. At least six fresh investigations will be launched by the authority. The 1998 Competition Act[2] governs competition and business practices. The act updates the foundation for

[1]Anti-cartel agreement https://www.oecd.org/competition/cartels/

[2]Chapter I of Competition Act 1998 https://www.legislation.gov.uk/ukpga/1998/41/part/I/chapter/I

recognizing and addressing restrictive corporate practices and market power abuse. The competition act's major goal was to bring the UK's competition policy in line with that of the European Union.

For violations of the UK competition rules forbidding cartels and restrictive agreements, the Competition and Markets Authority (CMA) has the authority to impose fines of up to 10% of an undertaking's global turnover in the previous financial year. Companies that inform the CMA about cartels may receive complete immunity (if they are the first to come forward) or a reduced fine under the CMA's leniency policy. A leniency applicant must provide all information about the cartel, stop participating in it, and fully cooperate with the CMA's inquiry.

In non-cartel instances, the CMA may agree to terminate its investigation (without issuing a formal infringement judgement or imposing fines) if the parties make agreements to improve their conduct.

Third parties who have suffered a loss as a result of a violation of competition laws can file private damages claims in national courts. Any agreement that violates the prohibition shall be null and invalid. As a result, such a provision cannot be used to sue the opposing party to the agreement. A person who is being sued for breach of a contractual term may try to use the Competition Act 1998's invalidity as a defence.Individuals convicted of a cartel offence under the Enterprise Act 2002 face up to five years in jail. A director of a corporation that violates competition law can also be disqualified for up to 15 years if the court finds that their conduct as a director renders them unable to be involved in company management.

iii. Avoiding monopolies and market supremacy

Antitrust legislation in the United States and the United Kingdom forbids firms from using illegal measures to retain or grow monopoly power. Monopoly can be formed when a corporation has exclusive ownership and control over resources, by government rules that prevent new enterprises from entering the market, by a merger between two or more companies, or by designers and producers filing patents. Governments play a role in monopoly control for a variety of reasons. Like, to prevent excessive pricing being imposed on consumers, to foster competition, and to ensure that consumers receive high-quality products.

The Sherman statute declares that anyone who monopolizes, attempts to monopolize, or conspires with others to monopolize parts of the trade is guilty of a criminal. "Any abuse of a dominant position by one or more enterprises within the internal market or in a substantial part of it will be prohibited as incompatible with the internal market in so far as it may affect trade between the Member States," according to the UK competition act.

In the United States, monopolization is forbidden[3], and the Sherman Act prohibits certain actions such as excessive dealing, predatory pricing, product testing, failure to supply a critical facility, and price discrimination. Monopolization has a legal definition in the United Kingdom, which is known as abuse of a dominating position. The Sherman Act outlaws monopolization and attempts to dominate any aspect of commerce among the United States' different states. Under US law, anyone who participates in monopolization or attempts to monopolize is guilty of a felony. The repercussions of monopoly infuriate voters in their daily lives, as they face sky-high drug-company costs and abuses by cable companies, health insurance, and airlines. Because there is no government involvement, it is bad to consumers. Market dominance by a single entity is protected and prohibited under UK competition law[4]. However, market domination is contingent on the importance of the markets in issue, both in terms of geographic scope and the commodities and services that make up the market. Market share, entrance and exit obstacles, rival positioning, and consumer bargaining power are all elements that might impact market dominance. When a company's market share is less than 40%, it is not regarded to have market dominance.

The requirements of Article 102 of the Treaty on the Functioning of the European Union are largely replicated in domestic UK competition legislation (TFEU). Chapter 2 of the Competition Act 1998

[3] Monopoly illegal in US https://www.bqprime.com/businessweek/how-to-assess-whether-big-tech-firms-are-monopolies

[4] Monopoly illegal in UK https://uk.practicallaw.thomsonreuters.com/8-572-7006?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=Monopolies%20and%20abuses%20of%20market%20power%20are%20regulated%20under%20civil,Article%20102%20of%20the%20TFEU

contains the UK legislation (the Act)[5]. Section 18 of the Act states that "any action on the part of one or more enterprises that amounts to the abuse of a dominant position in a market is illegal if it may impact trade within the United Kingdom[6]," subject to certain exceptions.UK and EU competition legislation (including Article 102 of the TFEU) both applied in the UK when the UK was still a member of the EU. Following the UK's exit from the European Union and the European Economic Area[7], a transition period in which EU competition law continued to apply in the UK concluded on 31 December 2020. Since the end of the transition phase, EU competition legislation has no direct effect in the United Kingdom.

Conduct that amounts to abuse of a dominating position is unlawful, and the offending company or companies may face a monetary penalty and/or appropriate directives to stop the violation. For a violation of Article 82 of European Community Treaty[8]and/or the Chapter II of Competition Act 1998 ban, the Office of Fair Trading may impose a pecuniary penalty of up to 10% of an undertaking's worldwide revenue. The OFT shall consider its guidance on the appropriate amount of penalties when determining the amount of any penalty. The competition law guideline Enforcement has additional information on penalties and directives as well as other consequences of violating Article 82 and/or the Chapter II prohibition

Apple Monopoly Case

Antitrust authorities in the United Kingdom have launched an investigation into Apple Inc. and its App Store to see if the iPhone maker is abusing its market position by requiring its own payment mechanism to limit competition. Apple's possibly "dominant" position in the supply of apps for iPhones and iPads will be considered by the CMA, according to a statement released on Thursday. According to the CMA, the investigation will focus on how Apple forces customers to utilize its own payment system for in-app sales[9].

After accusations that Apple Inc's terms and conditions for app developers are unfair and anti-competitive, Britain's competition authority announced on Thursday that it has begun an investigation into the company. According to the CMA, the investigation will look into whether Apple has a monopoly in the distribution of apps on its devices in the UK. App developers have long complained about Apple's payment practices, which force them to utilize the company's payment system, which charges commissions ranging from 15% to 30%.

The same was found in the US. The corporation owns the mobile operating system that runs apps on iPhones and iPads, as well as the Apple App Store, which is the only place where users can get apps for their Apple devices. Apple's 30% fee for programmes acquired through its App Store is only one example of the company's long-term influence over the mobile app ecosystem.

The Court decided that a substantial quantity of evidence establishes that the Publisher Defendants conspired horizontally to fix prices. There is enough evidence to prove that Apple conspired with publishers to eliminate retail price competition and raise the price of e-books in violation of Section 1 of the Sherman Act. Apple was a willing and active participant in the plot, according to the evidence. The plaintiff has established that the Sherman Act was violated per se. Apple's appeal that it conspired to e-book price fixing was denied by the Supreme Court of the United States in March 2016, therefore the

[5] the Chapter 2 Prohibition of Competition Act 1998 https://www.legislation.gov.uk/ukpga/1998/41/part/I/chapter/II

[6] Sec 18 Competition Act 1998 https://www.legislation.gov.uk/ukpga/1998/41/section/18#:~:text=18%20Abuse%20of%20dominant%20position.&text=(1)Subject%20to%20section%2019,trade%20within%20the%20United%20Kingdom

[7] European Economic Area https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:European_Economic_Area_(EEA)#:~:text=The%20European%20Economic%20Area%2C%20abbreviated,force%20on%201%20January%201994

[8] Article 82 of European Community Treaty https://ec.europa.eu/competition/legislation/treaties/ec/art82_en.html#:~:text=Any%20abuse%20by%20one%20or,affect%20trade%20between%20Member%20States

[9] Apple's abuse of dominance in UK https://economictimes.indiatimes.com/tech/technology/uk-starts-probe-on-apple-over-alleged-app-store-monopoly/articleshow/81330434.cms?from=mdr

earlier court finding continues, and Apple must pay $450 million[10].

iv. Merger Control

The approach to mergers and acquisitions in the United States and the United Kingdom has become increasingly similar over time. The UK's implementation of the Guidelines on the Assessment of Horizontal Mergers in 2003 is one of the most important variables to consider. In both their emphasis on economic principles and its form, these rules are philosophically comparable to the U.S. Horizontal Merger. In terms of efficiency, antitrust testing, and concentration tests, the rules are comparable. The UK and the US have agreed to implement best practices for merger cooperation.Following the implementation of these rules, a chief economist role was created, as well as an increase in the number of economists on staff. Despite the similarities in merger guidelines, there may be times when enforcers must take different actions in particular situations. National, regional, and geographic markets, as well as anticompetitive impacts, may have an impact.

The Clayton Act, which prohibits transactions and agreements that might reduce competition or create a monopoly, governs mergers in the US. This statute also forbids the use of unfair competition practices. The OFT and the Competition Commission have jurisdiction over matters that exclusively affect the UK market. Institutions play a significant role in the development of European merger laws.

Anti-trust regulators in the UK pay more attention to rival complaints when examining proposed acquisitions. In contrast, US enforcers are more likely to dismiss such complaints, claiming that competitors might object to agreements that make merging firms more efficient than their competitors. When it comes to analyzing prospective mergers, antitrust enforcers in the UK utilize economics differently than those in the US.This can be shown in their tendency to embrace harm theories even when there is no hard data to back them up. In contrast, US enforcers demand hard facts-based evidence to back up their beliefs of harm. The theories are used to develop scenarios that might occur if specific merger criteria were met. The UK guidelines place a strong emphasis on the protection of competitors who may be damaged by a merger that results in their removal from the market. Due to the numerous requirements for such harm theories to work, US antitrust laws are opposed to this method.

Google Fitbit Case

In November of 2019, it was announced that Google was planning to buy Fitbit for $2.1 billion. However, the EU has yet to express joy on the combination.The combination risks expanding Google's dominance and surveillance-based economic model, which already poses a systemic danger to human rights due to its nature and magnitude.

In the United States, Europe, and Australia, where competition regulators are increasingly suspicious of how internet firms might impose control over data to cement their dominance, Google's bid to purchase Fitbit Inc. has hit a wall of antitrust and privacy concerns.In the United States, antitrust regulators and legislators are debating how privacy breaches might affect competition. In the EU, where corporations are subject to the bloc's broad privacy regulation, the General Data Protection Regulation[11] or GDPR, the Competition Commissioner has asked for further restrictions to regulate how internet companies acquire and use data.

Google is already facing antitrust investigations all over the world. The Justice Department and state attorneys general in the United States are investigating possible antitrust breaches in digital advertising.As the investigations progress, it's becoming clear that the data sucked up by internet behemoths has erected virtually impenetrable obstacles to competition. While Google claims that the shift would improve user privacy, some opponents claim that the firm is simply using privacy as a cover to preserve its data domination.

[10]United States v. Apple Inc., 952 F. Supp. 2d 638 (S.D.N.Y. 2013)https://www.lexisnexis.com/community/casebrief/p/casebrief-united-states-v-apple-inc-1359006188

[11] General Data Protection Regulation https://www.investopedia.com/terms/g/general-data-protection-regulation-gdpr.asp#:~:text=The%20General%20Data%20Protection%20Regulation%20(GDPR)%20is%20a%20legal%20framework,the%20European%20Union%20(EU)

Google's businesses have already been the subject of three EU antitrust investigations, and antitrust regulators in the United States could make a strong case against the deal by claiming that acquiring Fitbit's user data will complement Google's existing data and allow the company to maintain its monopoly in internet search. Antitrust regulators may also claim that, in order to collect more data, Google will gradually weaken Fitbit's privacy measures. However, recently Google has acquired Fitbit overcoming the difficulties[12].

v. Enforcement of Law

The rule of law underpins the legal systems of both the United States and the United Kingdom. Despite their comparable legal systems, the antitrust laws are handled differently. In the United States, for example, private enforcement accounts for 75% of all antitrust cases. In the 1960s, private enforcement became more important. Private enforcement of anti-competition laws is non-existent in the United Kingdom. In Europe, the state's function was inextricably linked. This was owing to the government's extensive involvement in economic operations like energy, transportation, banking, insurance, telecommunications, and postal services.

This may be due to specific variables that are unfavorable in Europe but highly valued in the American legal system. In the United Kingdom, for example, attorneys are regarded as part of the legal system rather than as entrepreneurs looking to maximize profits. Legal costs, on the other hand, incentivize lawyers in the United States to invest and take on more antitrust claims.

The American rule prevails under American civil procedural law, with the defendant responsible for their own legal expenditures. The failed plaintiff is not required to compensate the defendant who was wrongfully sued. Furthermore, engagement of independent agencies is considered by US law to be part of the system of checks and balances. However, in the United Kingdom, using independent agencies to maintain the balance is considered as lacking a political mandate. In an effort to enhance private enforcement of competition law, the United Kingdom has increased its use of this provision.

Every antitrust or competition law violation is a setback for the free market. This system's health and vitality are dependent on healthy competition, which is dependent on antitrust compliance. Lawmakers have a wide range of options for punishing offenders when adopting these laws. Violators may have been obliged to reimburse the federal, state, and municipal governments for the estimated economic harm caused by the infractions. This treatment option, however, was not chosen. Instead, legislators decided to allow anybody who was hurt in their company or property as a result of an antitrust/competition law violation to sue for three times their actual damages.

Antitrust/competition administration and legislation can be considered as a compromise between precise and detailed rules for judges, regulators, and businesses, but minimal opportunity for discretion to prevent laws from having unintended repercussions. Broad guidelines allow administrators to choose between increasing economic performance and complying with political agendas to redistribute wealth.

Although the Federal Trade Commission and the Department of Justice have considerable authority overlap, the two agencies work well together in practice. The agencies have specialized in specific sectors or markets throughout time. The FTC, for example, focuses its efforts on sectors of the economy with large consumer expenditure, including as healthcare, pharmaceuticals, professional services, food, energy, and some high-tech industries like computer technology and internet services. To minimize duplicating efforts, the agencies confer before starting an inquiry. The term "agency" in this policy brief refers to the Federal Trade Commission (FTC) or the Department of Justice (DOJ), whoever is handling the antitrust inquiry.

If a consent agreement cannot be achieved, the investigation's choices will be determined by whatever agency is conducting it. There is just one choice for the DOJ: sue in federal court for an injunction to prohibit the detrimental conduct or (in the event of hard-core per se unlawful activities) for a criminal conviction. Many hard-core cartel activities, such as price fixing or bid rigging, are being reported to the DOJ under the provisions of a leniency program for informants. Rather than face trial, cartel

[12] Google acquisition of Fitbit https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2484

members frequently agree to criminal charges through a court-administered settlement with the DOJ.

Unlike the DOJ, the FTC has two options: it can seek injunctive action in federal courts or file an administrative complaint. An administrative law judge hears an FTC administrative complaint, which is similar to a federal court trial but takes place before an administrative law judge. Evidence is presented, witnesses are cross-examined, and testimony is heard. A cease-and-desist order may be issued if a legal infraction is discovered. An administrative law judge's first ruling can be appealed to the FTC. The FTC's final rulings can be appealed to the US Court of Appeals, and then to the Supreme Court. If the FTC's position is supported, the FTC may pursue consumer remedies in court in specific instances. The FTC may pursue civil fines or an injunction if a firm breaches an FTC order.

In rare cases, the FTC can seek an injunction, civil fines, or consumer relief directly from federal court. The FTC may seek a preliminary injunction to stop a proposed merger awaiting a complete investigation of the transaction in an administrative case in order to effectively enforce merger laws. The preliminary injunction maintains the competitive status quo of the market.

The FTC has the authority to report evidence of criminal antitrust offences to the Department of Justice. Criminal penalties can only be obtained by the DOJ. In several areas, including as airlines, banks, railroads, and telephones, the DOJ has sole antitrust authority. Other regulatory authorities must approve some mergers based on a public interest as criteria. The FTC or the Department of Justice frequently assists these regulatory authorities with their competition analyses.

Attorneys general can play a critical role in antitrust enforcement when it comes to issues that are vital to local firms or consumers. They can file federal antitrust lawsuits on behalf of residents of their states or as a buyer on behalf of the state. A state attorney general may assist federal authorities in merger investigations. State attorneys general may also file a lawsuit to enforce antitrust laws in their jurisdiction. State antitrust laws are not preempted by federal law, the Supreme Court has ruled. State laws may, in fact, go beyond federal law in terms of what they prohibit, however they cannot penalize behavior that occurs totally beyond their borders.

Antitrust laws can also be enforced by private parties. In reality, the majority of antitrust lawsuits are filed by firms and individuals seeking triple damages for breaches of the Sherman and Clayton Acts. Private parties can also seek injunctive remedies or file lawsuits under state antitrust laws to prohibit anticompetitive behavior. The Federal Trade Commission Act prohibits individuals and corporations from suing each other.Many state antitrust provisions, such as California's Cartwright Act[13] and state Little-FTC Acts[14], let private individuals to sue firms for injunctions or damages. Although these state regulations are loosely modeled on federal antitrust laws, they frequently include more broad restrictions or theories of culpability. As a result, private lawsuits launched under these state regulations may expose firms to responsibility for actions that would not be illegal under federal antitrust law.

When investigating cross-border activity that affects US consumers, US and foreign competition authorities frequently collaborate. Furthermore, as more US businesses and consumers conduct business internationally, federal antitrust enforcement frequently entails collaborating with other agencies throughout the world to promote strong competition policy approaches. There are currently around 130 international competition agencies.Through frequent meetings with key foreign agencies and joint work under the International Competition Network, the FTC and DOJ have attempted to promote good, economic-based antitrust principles. The

[13] California Cartwright Act https://content.next.westlaw.com/practical-law/document/I1899992c613911e9adfea82903531a62/The-Cartwright-Act-Overview?viewType=FullText&originationContext=document&transitionType=DocumentItem&ppcid=65ae1ed4b0734b33a6e90974239840ae&contextData=(sc.DocLink)&firstPage=true

[14] State Little-FTC Acts Follow-On State Actions Based on the FTC's Enforcement of Section 5 by Justin J. Hakala https://www.ftc.gov/sites/default/files/documents/public_comments/section-5-workshop-537633-00002/537633-00002.pdf

International Competition Network[15] is a virtual network that brings together most of the world's competition agencies to promote antitrust best practices through consultations, training, and the adoption of substantive and procedural best practices.

In the United Kingdom, several regulated industries have sectoral regulators that can enforce competition legislation alongside the CMA. The UK sectoral competition regulators, as well as the sectors that are subject to concurrent competition authority are always on check with the CMA. There are some industries that are subject to industry-specific regulation, but these industries do not have concurrent competition jurisdiction; instead, the CMA has sole authority to implement competition legislation in these areas.

The sectoral regulators[16] have the following competition law powers: to investigate and penalize any company engaged in anti-competitive practices in the UK, such as cartels and the abuse of a dominant position; to launch investigations into markets to ensure they are competitive; and, if necessary, to make a market investigation reference to the CMA for an in-depth investigation or to accept undertakings from market participants to avoid a reference. The sectoral regulators have the same authorities as the CMA in both of these areas. When it appears that a new competition investigation may be needed, whether as a result of a complaint, a leniency application, or general market intelligence affecting one or more regulated sectors, and there is a question of concurrent jurisdiction, the CMA and the relevant sectoral regulators will always consult to determine who is best suited to investigate.

Under UK merger control regulations, sectoral regulators do not rule on the competition law consequences of mergers. Sectoral regulators may be involved in merger investigations in some circumstances. For example, National Health Service (NHS) Improvement[17] advises the CMA on healthcare mergers that fall under UK merger control rules, and the Office of Communications[18] (Ofcom) advises the Secretary of State on media plurality in media mergers that are deemed to be of public interest.

When it comes to certain situations, it is obvious that sectoral regulators may be allowed to intervene under either their competition legislation or sector-specific regulatory authority. When considering whether to employ competition law authorities or sector-specific regulatory powers, a sectoral regulator must assess whether it is more appropriate to take action under competition law before taking action under sector-specific regulation, and this choice must be adequately justified. If the Secretary of State believes it would be more helpful, he or she can now remove concurrent competition enforcement powers from a sectoral regulator.

Companies or individuals who have lost money as a consequence of a breach of UK competition law can sue the person (or parties) responsible for the anticompetitive behavior for damages. A claimant may launch a 'follow-on' lawsuit if the regulator's conclusions on the infringement are binding on the court and may be used as proof of anti-competitive behavior. A claimant will need to launch a 'stand-alone' claim if there has been no prior infringement judgment from a regulatory body or if the scope of an infringement decision is not sufficiently broad, for example, in terms of product scope or territorial reach. The Competition Appeal Tribunal or the High Court can hear complaints.

IV. CONCLUSION

The above research work was able present a comparative analysis between the Competition Law of UK and the Antitrust Law of USA highlighting how these laws act in specific circumstances with few examples as well. Both present some positive as well as few negative points. To avoid any violation of antitrust law one must be very careful. They must take precautionary steps not just as an individual or employee but also think of ways to prevent violation of competition laws by means of his business; hence, I have listed few suggestions to avoid antitrust violation. One should never speak with a rival about

[15] The International Competition Network https://www.internationalcompetitionnetwork.org/

[16] Competition sectoral regulators https://www.gov.uk/government/news/regulators-promote-competition-across-sectors-in-2021-to-2022

[17] NHS Improvement https://www.gov.uk/government/organisations/nhs-improvement

[18] the Office of Communications https://www.ofcom.org.uk/home

pricing or pricing difficulties. If one is at a trade fair and other exhibitors are talking pricing, they should leave right away. If one plans to stand, they lose everything and gain nothing even if they are not the part of discussion. They should never condition a sale on a buyer buying another product from you. One should never talk about giving rivals customers or markets in return for 'protected' customers or territory. Antitrust rules may prohibit 'divide and conquer' tactics. They should be wary of "exclusive" arrangements that prevent your suppliers from selling to others or force your dealers to offer only your goods. If these agreements make it more difficult for new enterprises to enter the market, they may constitute antitrust breaches. One should not try to influence a customer's resale pricing or restrict a customer's resale activities. Don't discuss the pricing that shops charge for your items with them. Do not discuss other customers or how you sell to other customers with your retailer customers. Customers should not be forced to buy entirely from your firm. One should never tell a buyer that he or she should buy from your company because your company buys from the buyer's. Customers that may compete with one another should not be charged different prices for the same volume of product. If you can't support your claims, don't trash a competitor's product vocally or in writing. One should consult their legal counsel about creating an antitrust compliance manual to ensure that all workers, especially those who interact with rivals, are aware of what is forbidden and also examine their membership in all trade organizations and create meeting standards. They should have company counsel meet with attendees at association meetings on a regular basis to discuss the meetings and keep track of antitrust compliance.

REFERENCES

[1] Competition Act 1998 https://www.legislation.gov.uk/ukpga/1998

[2] International Law and Extraterritorial Application of The Antitrust Laws by George Winthrop Haight Yale Law Journal Volume 63:639 https://openyls.law.yale.edu/bitstream/handle/20.500.13051/14064/50_63YaleLJ639_1953_1954_.pdf?sequence=2&isAllowed=y

[3] Merger Antitrust Law https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/mergers

[4] Monopoly https://www.justice.gov/atr/antitrust-laws-and-you#:~:text=The%20Sherman%20Antitrust%20Act,-This%20Act%20outlaws&text=An%20unlawful%20monopoly%20exists%20when,suppressing%20competition%20with%20anticompetitive%20conduct

[5] Monopoly illegal in UK https://uk.practicallaw.thomsonreuters.com/8-572-7006?transitionType=Default&contextData=(sc.Default)&firstPage=true#:~:text=Monopolies%20and%20abuses%20of%20market%20power%20are%20regulated%20under%20civil,Article%20102%20of%20the%20TFEU

[6] Monopoly illegal in US https://www.bqprime.com/businessweek/how-to-assess-whether-big-tech-firms-are-monopolies

[7] Sherman Act https://content.next.westlaw.com/practical-law/document/I03f4d787eee311e28578f7ccc38dcbee/Section-1-of-the-Sherman-Act-Section-1?originationContext=document&transitionType=DocumentItem&contextData=%28sc.Default%29&firstPage=true&viewType=FullText

[8] The Extra-Territorial Application of United States Antitrust Laws: A Proposal for An Interim Solution by Thomas W. DunfeeAryeh S. Friedman Ohio State Law Journal Volume 45:883 https://kb.osu.edu/bitstream/handle/1811/64335/OSLJ_V45N4_0883.pdf#:~:text=A%20state%20has%20jurisdiction%20to%20prescribe%20law%20governing,when%20territoriality%20is%20the%20basis%20for%20asserting%20jurisdiction.?msclkid=5f93e24fd0ef11eca8c3492358e4db4b