Abstract of Winning Articles

1st Prize:
Ms. Tanya Choudhary
NALSAR University of Law, Hyderabad
Title: "Arbitrability of Competition Law Disputes in India - Where are we now and where do we " go from here?"

"With the increase in the number of commercial disputes and proliferation of arbitration as a preferred method of settlement of disputes, the types of disputes that can be resolved by arbitration is also steadily increasing. The arbitrability of competition law issues is one such issue which has been the subject of intense debate throughout the world, while the issue continues to remain relatively unexplored in the Indian context."

“This paper has a twin exploratory and normative aim. First, the paper explores the possibility of arbitration of competition law disputes under the existing legal regime of India. It focuses on the definition of arbitrability in statues, undertakes an exhaustive analysis of case-laws to formulate an operation test of 'arbitrability' and then applies the same to competition law matters. On the normative front, the paper discusses the probable justifications and advantages of allowing arbitration in competition law and takes examples from international best practices to suggest a way forward. It does not however, address issues of applicable law and the analysis is based on the assumption that the applicable law is one of India”.

2nd Prize:
Mr. Divyanshu Agrawal
National Law School of India University, Bangalore
Title: "The validity, use and abuse of anti-arbitration injunctions in India"

"The power of the Indian courts to interfere with foreign-seated arbitrations by issuing anti-arbitration injunctions has garnered a lot of attention from the international arbitration community. Until recently, this power has been exercised in a haphazard manner without realising the need to justify the existence and compatibility of this power with the 1996 Act or the New York Convention. However, this has changed with two Supreme Court decisions on the issue. It is therefore crucial to analyse whether courts in India may pass an order of injunction restraining foreign arbitration proceedings, and the circumstances in which such orders may be passed. The article elucidates the early Indian approach towards anti-arbitration injunctions, the relevant provisions of the 1996 Act and the comparative framework in which the current position should be examined. It is seen that there is an international trend towards respecting the arbitral process and awarding such injunctions in exceptional circumstances. At the same time, stipulating that such injunctions are grossly violative of the New York Convention is far-fetched. The article discusses those situations in which it may be prudent to enjoin arbitral proceedings. In Chatterjee and World Sport Group, one can see many of the international approaches. Yet, there are several deficiencies which are brought out. In conclusion, the decision in World Sport Group may hold the field. Interpreted and applied properly, the decision reflects international
best practice – anti-arbitration injunctions may be awarded where the arbitration agreement is null and void, and the arbitral proceeding is vexatious and oppressive."

**3rd Prize:**
Ms. Arunima Kedia
National Law School of India University, Bangalore
Title: "A Critical Analysis in the context of the Indian Competition and Arbitration Law Regimes"

"Both arbitration and competition law are doctrines that are at a very nascent stage in Indian jurisprudence. The Indian judiciary has always been extremely sceptical of leaving issues to private adjudication through alternative mechanisms and has only recently started taking baby-steps towards entrusting arbitral tribunals with important matters and limiting the scope of judicial review. However, there is no clear jurisprudence regarding the arbitrability of competition law disputes in India. This essay is an analysis of the competition law and arbitration regimes in India to determine the Indian position on arbitrability of competition law issues and to criticise the same in light of international jurisprudence on the subject. It argues that the statutory framework in India should be interpreted to permit the arbitrability of competition law as it provides adequate safeguards to prevent infringements of public policy."

**Honourable Mentions:**
Ms. Arshiya Sharda
NALSAR University of Law, Hyderabad
Title: "Binding Non-Signatory States to Commercial Arbitration: Treading an uncertain path"

"Arbitration is a creature of contract and accordingly consent is the foundation of every arbitration proceeding. However, an increasingly complex commercial environment has led arbitral tribunals and courts to confer rights and impose obligations arising from an arbitration clause on parties who are not signatories to the contract. A range of theories have been developed to bind non-signatory individuals, corporations and states to arbitration agreements. This paper examines the process of binding non-signatory states/sovereigns to arbitration agreements which were signed by state-owned enterprises. The paper first discusses the various theories and principles used by courts and arbitral tribunals to bind non-signatories to arbitration agreements. It then seeks to highlight the problems with the current standards and principles being employed by tribunals and courts to bind non-signatory sovereigns. In conclusion the author suggests formulation of institutional rules for binding non-signatory states to arbitration agreements."

Mr. Rohan V. Tigadi
National Law University, Jodhpur
Title: "Indian Premier League and XIX Commonwealth Games take Arbitrability of fraud in India by storm"

"Allegations of fraud by a party have proven to be a troublesome question for enforcement of arbitration agreements in India. No statutory provision of the Indian Arbitration & Conciliation
Act, 1996 prohibits arbitrability of fraud claims in India. However, judicial proclamations had steered to a site where even a hint of any fraudulent action by one of the parties would make the disputes non-arbitrable. This paper attempts to provide an in-depth analysis of arbitrability of fraud claims in India. The author in pursuance of this endeavor highlights some key provisions of the Arbitration & Conciliation Act, 1996. Then, the author critically analyzes the effect of the judgments of the Supreme Court in World Sports Group (Mauritius) Ltd. v. MSM Satellite (Singapore) Private Limited and Swiss Timing Limited v. Organizing Committee, Commonwealth Games on arbitrability of disputes pertaining to fraud in India. Finally, the author concludes by enumerating additional reasons for permitting arbitrability of disputes pertaining to fraud in India.

Ms. Shruti Raina
Symbiosis Law School, Pune
Title: "The inefficacious Arbitral Interim Measures under Section 17 of the Indian Arbitration Act: Examining their prospective enforceability as 'Interim Awards' while making a case for contempt"

"The efficacy of interim measures though essential to the receipt of the coveted award at the end of any arbitration, has not received its due share of consideration. Enforceability of interim measures granted by Arbitral tribunals under Section 17 of the Arbitration & Conciliation Act, 1996 has been a long lost battle. The feeble nature of such measures compels one to ponder upon how it may be prospectively made enforceable through 'other mechanisms'. The article first illustrates interim measures and the issue of their 'un-unenforceability' when awarded by Tribunals under Indian law. It then tackles the wisdom behind this position to ascertain whether the Courts have applied the law correctly. The UNCITRAL Model Law from which the Indian Act stems is then examined in light of its 2006 amendment which categorically dealt with this issue. It then demonstrates two approaches: a) The Positive approach: By way of giving it the form of an interim award under Section 31 of the Act and b) The Negative approach: by punishing disobedience in from of Contempt under Section 27 of the Act. It weighs the alternatives that lie before the parties and the arbitrators, to see how they must address this subject. The author then concludes by suggesting what the appropriate mechanism would be in light of the concurrent jurisdiction in the Indian scenario to successfully circumvent this issue that ails dispute resolution in India."