

# UPSC LAW OPTIONAL MAINS STRATEGY

A SMALL DECISION WILL  
MAKE YOU SUCCEED!

## *Writing practice*

Take this 5 minutes real time  
exercise to know the importance of  
writing practice in UPSC Mains.

# How do I take this exercise ?

**Step 1: Read the question given, understand it.**

**Step 2 : Read the answer written by the aspirant and rate it as GOOD, BAD OR AVERAGE. Find out the mistakes committed by the aspirant without researching/ reading any material.**

**Step 4: Now see the evaluation of the aspirants answer.**

**Step 5: Finally read the solution given**

**Step 6 : Assess whether your rating is right now.**

**RESULT : If you think your rating is wrong you must definitely join some test series to check your performance – self assessment will not work.**

**BUT**

**If you have rightly spotted all mistakes committed by the aspirant then you can perfectly continue your own self assessment.**

Q

Explain the link between predatory pricing and abuse of dominance from MRTP Act to Competition Act.

Ans.

Predatory pricing:

According to section 4 of the competition Act 2002 predatory pricing means practice of reduction of cost price below the guidelines in substantial amount and thus eliminate competitors.

$\text{selling price} < \text{guidelines value} \Rightarrow \text{predatory pricing.}$

Abuse of Dominance:

According to the explanation of sec:4 of the Act, dominant position means the strength of competitive forces an enterprise in the relevant market in India which enables the enterprise to operate independently of competitive forces prevailing in India and to affect the consumers in its favour.

Abuse of Dominance and predatory pricing.

An enterprise is said to abuse its dominance if it impose unfair or discriminatory condition or price, or limit or restrict production of goods or indulges in practice of denial of markets in any way and also when it sells goods or services in predatory pricing also.

### Conclusion:-

Thus predatory pricing is a mode by which the offence of abuse of dominance could be committed by an enterprise.

And it is checked under section 4 of Competition Act.

Q

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Ans.

Predatory pricing:

Neat Handwriting!

According to section 4 of the competition Act 2002 predatory pricing means practice of reduction of cost price below ~~the guidelines~~ in substantial amount and thus eliminate competitors.

Not below the guidelines but below the cost - refer definition Sec: 4 b

"predatory price" means the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations...

$\text{selling price} < \text{Cost guidelines value} \Rightarrow \text{predatory pricing.}$

Your chart is good but make sure you write correct concept

Abuse of Dominance:

According to the explanation of sec: 4 of the Act, dominant position means the strength of competitive forces an enterprise

Try not to strike out as it will make the evaluator think that, as if you are not confident with what you are writing

in the relevant market in India which enables the enterprise to operate independently of competitive forces prevailing in India and to affect the

However small strikings are manageable

Not in India but in relevant market.

Dominance is always studied in relevant market.

consumers in its favour.

Abuse of Dominance and predatory pricing.

An enterprise is said to abuse its dominance if it impose unfair or discriminatory condition or price, or limit or restrict production of goods or indulges in practice of denial of markets in any way and also when it sells goods or services in predatory pricing also.

Above 5 lines not required - not related to question asked as they do not establish link with predatory pricing and abuse of dominance.

This last line alone relevant

Conclusion:-

Thus predatory pricing is a mode by which the offence of abuse of dominance could be committed by an enterprise.

And it is checked under section 4 of Competition Act.

Remarks :

You have given an average attempt and the following are the lacunae

- 1) You have missed key words therefore there is a miss in concepts : you need not memorise concepts but make sure you retain the keywords.
- 2) The above is not the most desired answer for the question asked - the question wanted you to check the link between two concepts from MRTP to Competition Act. You have never spoke about MRTP Act.
- 3) You have written what book says - answer is too bookish. Read the concepts retain them and then process the knowledge you gained to give the best outcome. Your own input was not there. Refer solution to see the difference
- 4) Your answer is too static - you did not relate the concept with present practical situations. Read more current affairs and incorporate them. Eg : RELIANCE JIO issue and OLA CABS on predatory pricing could be discussed.
- 5) You have used two colour pens - good but changing pens would consume a lot of time thus if you want to highlight a term kindly underline it - underlining is a good strategy to draw evaluators attention without wasting your precious time.

THINK DIFFERENT TO STAND OUT OF THE CROWD.



**1.E. Explain the link between predatory pricing and abuse of dominance from MRTP Act to Competition Act (10m)**

**INTRODUCTION :**

**PREDATORY PRICING = DESTROYER PRICING**

**CONCEPT :** It refers to a practice of driving rivals out of the business by **selling at a price below the cost of production** and thereby creating a barrier to the new potential entrants # **Explanation (b) of Section 4 Competition Act( The Act) .**

The US Supreme Court in *Utah Pie vs. Continental Banking Co*, - price below the full cost is predatory.

**ABUSE OF DOMINANCE = DOMINANCE + IT'S ABUSE**

**DOMINANCE :** It is a position to override others : such a position that gives the enterprise the power to 'operate independently of competitive forces in the relevant market

**IT'S ABUSE :** This dominance perse not condemned it becomes illegal when it is abused : One is said to abuse ones dominance when – it leads to circumstances given in sec: 4 (2) of the Act Viz **Impose unfair or discriminatory condition or price in sale and purchase of goods or services etc**

**LINK BETWEEN PREDATORY PRICING AND ABUSE OF DOMINANCE :**

**EARLIER :** Under MRTP Act, dominance is not a pre-condition for predatory pricing rather the conduct and intent of the predator is material and needs to be proved with clear and cogent evidence.

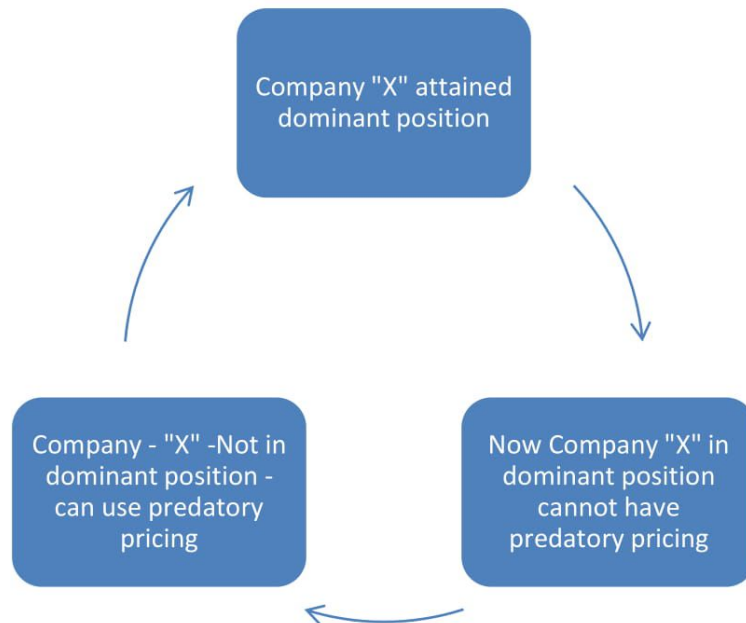
**EFFECT :** Even small enterprises can be slammed of predatory pricing if they sell goods below cost price.

**RESULT :** Both minor and major entrepreneurs we not allowed to expand their business via predatory pricing.

**PRESENT POSITION :** The Competition Act declares predatory pricing as a means of abuse of dominance, thus dominance is a precondition to sustain a predatory pricing claim under our law.

**EFFECT :** Only giants in relevant market who use predatory pricing to eliminate competitors are culpable.

**RESULT :** Any entity which is not in dominant position could use predatory pricing to expand its business but once it attains the dominant position it cannot still continue such pricing to evade other competitors to attain monopoly.



**RECENT ISSUE : Ola Cabs and Reliance Jio was alleged to be of having predatory pricing . In Jio case Jio, with its 6.4% market share, did not hold a dominant position.**

**IS THAT CHANGE A BETTER ONE ?**

Yes of course, predatory pricing is a mode of business strategy thus entrepreneurs should not be robbed of this age old effective strategy to enhance their business. But at the same time they cannot be allowed to attain monopoly and exploit the consumers at the later stage.

Thus to strike a balance between good of both consumers and entrepreneurs the competition act is drafted in such a way to allow small business to grow and prevent dominant companies to exploit.



**STRATEGY FOR TEST 1 : UPSC MAINS 2018 LAW OPTIONAL TEST SERIES**

DATE : 20<sup>TH</sup> JAN 2018  
DAY 1

TOPIC 1 : *General principles of criminal liability: Mens rea and actus reus, mens rea in statutory offences.*

**1) Definition of crime :**

- Given by various eminent authors & approaches.
- How the Indian courts have defined the crime.

**2) Stages of Crime:** Intention, Preparation, Attempt & Commission - Meaning.**3) Elements of Crime: Fundamental Principle of Criminal Liability :** *Act without criminal intention cannot be a crime.*

- *Actus Reus* – Meaning, Definition under sec. 33 of IPC with expanding scope of Sec.32 & other requirement of law.
- *Mens Rea* - Meaning, *Mens rea* Under IPC, **Meaning of Intention** & its difference with Motive, Knowledge & Negligence.
- Criminal Liability of a Corporation.

**SOURCES**

*KD Gaur – Chapter 1-4 ; Also refer - Ratanlal & Dhirajlal's.*

DATE : 21<sup>ST</sup> JAN 2018

DAY 2

TOPIC 1 : *General principles of criminal liability: Mens rea and actus reus, mens rea in statutory offences.*

**1) Preparation under IPC.****2) Attempt Under IPC :**

- What is an attempt?
- Attempt under Indian Penal Code.
- When does Preparation end & Attempt begin.
- **Tests :** 1. Proximity rule. 2. Doctrine of Locus Poenitentiae 3. Equivocality Test

**SOURCES**

*KD Gaur – Chapter 15 ; Also refer - Ratanlal & Dhirajlal's*

**DATE : 22<sup>ND</sup> JAN 2018      TOPIC 1 : General principles of criminal liability: Mens  
rea and actus reus, mens rea in statutory offences.**

**DAY 3**

**“ Mens rea in statutory offences”**

**SOURCES      Lawxpertsmv Notes : Module 1.3 of IPC**

**DATE : 23<sup>RD</sup> JAN 2018      TOPIC 2 : Kinds of punishment and emerging trends as  
to abolition of capital punishment**

**DAY 4**

- Understand the theories of Punishment
- Theories acceptable by Indian Courts.

#### **DIFFERENT TYPES OF PUNISHMENT UNDER SECTION 53 :**

##### **1) Death Sentence (DS):**

- Offences for which death sentence has been awarded under IPC – What are all the Sections?
- Procedure to be followed – when DS is awarded.
- Constitutional Validity of DS – Cases to be referred :
  - *Bachan Singh V. State of Punjab*
  - *Macchi Singh V. State of Punjab*
- Parameters so far evolved by **SC** for Imposition of DS Including “ Rarest of the rare” doctrine.
- Argue *for & Against* - DS
- Current Affairs : Alternative to Hanging.

##### **2) Imprisonment of Life (IOL)**

- Differentiate between *IOL V. Rigorous imprisonment V. Simple Imprisonment*.
- Scope of Second Clause - Section 53
- Is IOL equivalent to 20 years imprisonment ? Section 57 & *Godse Case*.
- Commutation of IOL by Appropriate Government. Section 55 of IPC & Sec.433 of CrPC.

##### **3) Imprisonment:**

- Fourth clause* of Section 53.
- Principles differentiating *Rigorous V. Simple Imprisonment*.

##### **4) Forfeiture of Property: *Fifth clause* of Section 53.**

5) **Fine** : *Sixth Clause* of Section 53.

6) **Solitary Confinement** :

- Section 73 & 74
- SC remarks on Solitary Confinement in *Sunil Batra V. Delhi Administration*

7) **Proposal of Reform** : Inputs of Law Commission Reports : 5<sup>th</sup>, 14<sup>th</sup>, 42<sup>nd</sup>, 165<sup>th</sup> & Other committees.

<b>SOURCES</b>	KD Gaur – Chapter 3 & 4 ; Also refer - Ratanlal & Dhirajlal's.
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**DATE : 24<sup>TH</sup> JAN 2018**

**DAY 5**

**TOPIC 3 : Nature and formation of contract/Econtract.**

## **LAW OF CONTRACTS**

### **1. Agreement and Contract**

- Definition : Agreement - Sec.2(e) ; Contract - Sec. 2(h)
- Types of agreement : Contract, void, voidable & illegal.

### **2. Proposal or Offer - Essentials of Offer.**

- What is a proposal under Sec. 2(a)
- Differentiate Offer & Invitation to offer
- Communication of offer : Sec. 2(a) + 3 .
  - ✓ Express & Implied - Sec.9.
  - ✓ When completes - Sec.4
  - ✓ Various kinds of offer : General & Specific, cross etc...

### **3. Acceptance – Essentials of Valid Acceptance**

- What is acceptance - Section 2(b) & its effect.
- Essentials of valid Acceptance - 4 conditions.

### **4. Revocation of Offer and Acceptance :**

- When an offer can be revoked? Section 5.
- Modes of revocation of offer? Section 6

<b>SOURCES</b>	Avtar Singh : Chapter 1-4 ; R.K. Bangia Chapter 1.
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**DATE : 25<sup>TH</sup> JAN 2018****DAY 6****TOPIC 3 : Nature and formation of contract/Econtract.****5. Consideration :**

- Understand the definition under Sec.2(d)
- Essential requirements of Valid Consideration
- Learn about Doctrine of Privity of contract.

**6. Capacity to Contract :**

- Who can and cannot enter into contractual relationship. **Sec.11**
- Position of a minor :
  - ✓ Who is a minor
  - ✓ Nature of minor's contract
  - ✓ Doctrine of restitution / Compensation by a minor – Under English & Indian law.
- Position of an unsound mind: **Sec.12.**

**SOURCES****R.K. Bangia Chapters 2-3 ; Avtar Singh :Chapters 1-4.****DATE : 26<sup>TH</sup> JAN 2018****DAY 7****TOPIC 4 : Law of Torts : Nature and definition.**

- What is a tort? Its purpose & function.
- Definition of tort given by eminent authors. Any two. Preferably *Salmond, fraser & Limitation act.*
- Essentials of a tort along with “ *ubi jus ibi remedium*”
- Distinction between Tort & Crime, Breach of Contract, Quasi-Contract, Breach of Trust, Bailment.
- **Indispensable two maxims** : Damnum sine Injuria & Injuria sine Damnum
- **Two theories of Liability** : Utility and Pigeon-Hole theory.
- **Learn about** : Malice, Motive, Malfeasance, Intention & Recklessness, Fault.

**SOURCES****R.K. Bangia Chapter - 1 ; B.M. Gandhi – Chapter 1-2 ; PSA Pillai – Chapter 1.**

**DATE : 27<sup>TH</sup> JAN 2018    TOPIC 5 : Competition Law- Concept, purpose/  
prospects.**

**DAY 8**

**CONTEMPORARY LEGAL DEVELOPMENTS:**

- Objectives of Competition Act,2002 - Compare it with MRTP Act 1969.
- Prohibition of Anti-competitive Agreement. Sec.3. *Horizontal & Vertical.*
- Definition of Anti-competitive Agreement. Sec.4
- Abuse of Dominance. Sec.4 including *Predatory Pricing.*
- Regulation of Combinations. Sec.5
- Competition commission of India & COMPAT.

**SOURCES    T.Ramappa on Competition Law ; Avtar Singh on Competition Law ;**

# JUST 199 DAYS TO UPSC MAINS 2018!!

**October 1st is your 2018 UPSC Mains examination**

From today ( 20/1/2018) you have 255 days

You would need 25 days before prelims for UPSC Prelims revision

You need to complete your Optional preparation at least 25 days before UPSC Mains

so that you can revise for GS and also Optionals

THUS ! 255-25-25 = 205 DAYS

## HOW ?

### NOW NEXT QUESTION COMES IN :

### WHEN IS THE BEST TIME TO START YOUR OPTIONAL PREPARATION FOR UPSC MAINS 2018 ?

Remember smart brains - you are not doing optional alone. You have two big giants standing before you, none other than Prelims and Mains .

You must read optional along with them.

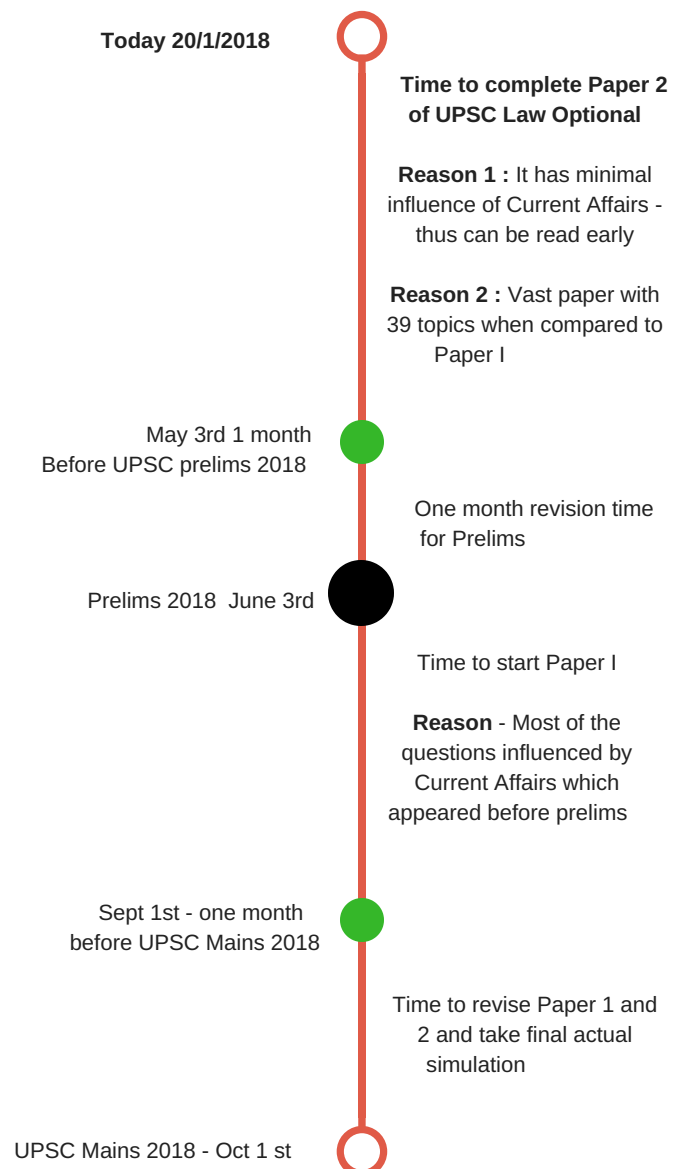
**Why can't I finish Optional now in 1 month ?** Most of the optional especially in Law optional many questions are asked from current affairs, thus you cannot cover static portion alone and sit tight.

Even if you do static portion in one month and later try to cover CA then and there - keep in mind you will lose your tract in prelims + forget what you learnt at time of Mains.

why can't I keep the Optional at last and finish it after prelims ? You cannot do that simply you will not be able to cover Mains.

**THUS BEST WAY DO GS + PRELIMS + OPTIONAL with adequate interval before prelims**

### PERFECT STRATEGY FOR PREPARATION OF UPSC LAW OPTIONAL MAINS



**OUR TEST SERIES HAS SAME STRATEGY**



**THE MAGIC SCHEDULE THAT MAKES YOUR PREPARATION EASY !****Date****Day****Test****28/1/2018****Sunday****CONCEPT-WISE TEST 1****07/2/2018****Wednesday****CONCEPT-WISE TEST 2****14/2/2018****Wednesday****CONCEPT-WISE TEST 3****24/2/2018****Saturday****CONCEPT-WISE TEST 4****07/3/2018****Wednesday****CONCEPT-WISE TEST 5****19/3/2018****Monday****CONCEPT-WISE TEST 6****26/3/2018****Monday****CONCEPT-WISE TEST 7****02/4/2018****Monday****CONCEPT-WISE TEST 8****12/4/2018****Thursday****LAW OF CRIMES****19/4/2018****Thursday****LAW OF CONTRACTS****26/4/2018****Thursday****LAW OF TORTS****30/4/2018****Monday****CONTEMPORARY LEGAL DEV.****07/5/2018****Monday****CONCEPT-WISE TEST 9****1 month Holidays before prelims****07/6/2018****Thursday****CONCEPT-WISE TEST 10****13/6/2018****Wednesday****CONCEPT-WISE TEST 11****21/6/2018****Thursday****CONCEPT-WISE TEST 12****27/6/2018****Wednesday****CONCEPT-WISE TEST 13****03/7/2018****Tuesday****CONCEPT-WISE TEST 14****09/7/2018****Monday****CONCEPT-WISE TEST 15****13/7/2018****Friday****CONCEPT-WISE TEST 16****23/7/2018****Monday****CONSTITUTIONAL LAW****02/8/2018****Thursday****INTERNATIONAL LAW****07/8/2018****Tuesday****FL : PAPER I****23/8/2018****Thursday****FL : PAPER II****01/9/2018****Saturday****FULL LENGTH: P I & II****Completed 1 month before Mains**

# KEY FEATURES

**OUR  
IMPECCABLE  
RECORDS**

**25+ STUDENTS OF LAWXPERTSMV STUDENTS CLEARED IN MAINS 2017  
OUT OF 56 QUESTIONS IN LAW OPTIONAL MAINS,  
44 QUESTIONS REFLECTED OUR TEST SERIES IN UPSC MAINS 2016 &  
2017**

**ONLINE  
TEST  
SERIES**

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EASY EMI**

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ANY TEST  
ANY TIME  
BEFORE MAINS 2018**

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- Strategy given for each test - Topic wise analysed bifurcation with relevant books with chapters to read each day.
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- Simulates actual writing practice as in UPSC Mains
- Question in UPSC pattern
- Evaluation within 4 days of attending the test
- Solution will be given on same day of taking the test
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