COVID-19 and Essential Commodities Act

The Essential Commodities Act, 1955 was enacted to ensure the easy availability of essential commodities to consumers and to protect them from exploitation by unscrupulous traders. The Act provides for the regulation and control of production, distribution and pricing of commodities which are declared as essential. The Act aims at maintaining/increasing supplies/securing equitable distribution and availability of these commodities at fair prices.

The Act empowers the Central and state governments concurrently to control production, supply and distribution of certain commodities in view of rising prices.

The State Governments are fully empowered under the Act to regulate production, distribution, supply and prices of the food items which are declared as essential commodities in the respective States. Thus the States are the implementing agencies to implement the EC Act, 1955 and the Prevention of Black marketing & Maintenance of Supplies of Essential Commodities Act, 1980, to ensure adequate availability of essential commodities at reasonable prices, by exercising powers delegated to them. This is reviewed periodically at the National level.

The list of essential commodities is reviewed from time to time with reference to their production and supply and in the light of economic liberalization in consultation with the concerned Ministries/Departments administering these commodities. Currently, the restrictions like licensing requirement, stock limits and movement restrictions have been removed from almost all agricultural commodities. Wheat, pulses and edible oils, edible oilseeds and rice are the exceptions, where States have been permitted to impose some temporary restrictions in order to contain price increase of these commodities.

Who executes the Act

Food and civil supply authorities execute the provisions of the Act. They generally raid the premises of the businessmen to find out violations along with the local police, who have the power to arrest. In case a state doesn’t want to accept the Centre’s suggestion on implementing any provision of the Act it can do so. There are reports of Maharashtra not imposing stock limits for onions and potatoes. UP is not enforcing the Act itself.

Which commodities does it cover?

Seven major commodities are covered under the act.

1. Drugs;
2. Fertilizer, whether inorganic, organic or mixed;
3. Foodstuffs, including edible oilseeds and oils;
4. Hank yarn made wholly from cotton;
5. Petroleum and petroleum products;
6. Raw jute and jute textile;
7. Seeds of food-crops and seeds of fruits and vegetables;

(ii) seeds of cattle fodder; and

- In September 2019, the Centre invoked the ECA Act’s provisions to impose stock limits on onions after heavy rains wiped out a quarter of the kharif crop and led to a sustained spike in prices.
- Although the restrictions on both retail and wholesale traders were meant to prevent hoarding and enhance supply in the market, the Survey showed that there was actually an increase in price volatility and a widening wedge between wholesale and retail prices.
- This is due to the fact that ECA act fails to differentiate between hoarding and Storage.
- Thus in the long term, the Act disincentivises development of storage infrastructure, thereby leading to increased volatility in prices following production/consumption shocks — the opposite of what it is intended for.
- The report finds that the ECA has been enacted in the year 1955, when the economy was ravaged by famine and food shortages. The government should note that today’s scenario is much more different.

**Negatives of ECA,1955:**

- Less investment in warehousing and storage infrastructure, at least those that are visible (like large, efficient warehouses and silos) and can be easily raided.
- Encourages a group of grey market intermediaries between the farmer and the end consumer to come up.
- Storage of large quantities of goods under the ECA carries the risk of raids and expropriation, intermediaries normally demand a risk premium that has to be ultimately paid by the producer and the consumer.
- The rise of multiple levels of intermediaries and the lack of direct buying by large food processors from farmers may be a rational response to the ECA. While individual traders with the hope of making excess profits may be lured into the legal risk of holding excess stock
- The fear of the ECA may explain the lack of formal warehouses and silos in India. To counter this problem, the government through public sector banks provides interest and capital subsidies to any person setting up warehouses and other storage facilities for agricultural goods. This can increase the burden of fiscal deficit on the government and risk of Non Performing loans on the banks.
- It becomes a tool to expropriate traders who may have stored products during harvest to sell during the lean months.
- Violators of certain provisions of the ECA may be imprisoned for up to seven years.
- Sugar pricing issue: In 2002, the government formally announced that sugar would be de-controlled and repealed many Control Orders under the ECA. But by 2015, the Control Orders were back and stock holding limits placed on traders. Any person who built sugar holding facilities (warehouses or silos) based on the 2002 decision of the government would be losing money now.

**Benefits of the ECA,1955**

- The ECA gives consumers protection against irrational spikes in prices of essential
The Government has invoked the Act umpteen times to ensure adequate supplies. It cracks down on hoarders and black-marketeers of such commodities. State agencies conduct raids to get everyone to toe the line and the errant are punished.

Present Scenario of ECA,1955 during COVID19:

In recent years, there has been an argument that the EC Act was draconian and not suited for times when farmers face problems of plenty rather than scarcity. The Economic Survey 2019-20 argued that it hampered remunerative prices for farmers and discouraged investment in storage infrastructure.

But in the context of a crisis like the current one, the EC Act seems to serve a purpose. Bringing masks and sanitisers under the EC Act will enhance the availability of these products to the public, at fair prices.

Producers have been urged to manufacture these up to full capacity over three shifts. The government can take action against hoarders, speculators and those involved in jacking up prices or black-marketing. Besides this, quota restrictions on raw material holdings can be relaxed.

The MCA has asked all State governments to issue licences and permit hand-sanitiser makers to store ethanol and extra neutral alcohol (ENA) without any quota restrictions. The Indian Sugar Mills Association and All India Distilleries Association have been asked to ensure that ethanol and ENA are made easily available to producers. Reports indicate prices of ethanol and ENA can not be increased till June 30 and will need to be sold at the price levels as on March 5 this year.

Necessity of ECA,1955 during COVID19

- By placing masks and sanitizers under the EC Act, the government has capped the prices of these items. Price of a 2-ply mask has been capped at ₹8 and that of 3-ply surgical mask can’t exceed ₹10. Cost of hand sanitisers can’t exceed ₹100 for a 200-ml pack. Responding to this directive, companies such as Godrej Consumer, ITC and Hindustan Unilever have slashed the prices of sanitisers.
- Invoking the Act makes it harder for retailers to hoodwink customers. If they violate the norms, States can take action under the EC Act and the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act (PBMMSEC Act). An offender under the EC Act may be punished with an imprisonment of up to seven years and/or fine; and under the PBMMSEC Act, they can be detained for maximum of six months.
- Producers need not fret much about the cap on prices, as they partly benefit from lower input prices, with higher volumes making up for the lower price point to some extent (*Economy of Scale concept)