

Fair Play

VOLUME 27 : OCTOBER - DECEMBER 2018



Mr. Arun Jaitley, Hon'ble Minister of Finance and Corporate Affairs at the National Conference on Public Procurement and Competition Law organized by CCI on 5th of November, 2018 at New Delhi.

IN-FOCUS :
CCI ROADSHOWS ON
COMPETITION LAW

CONTENT.....

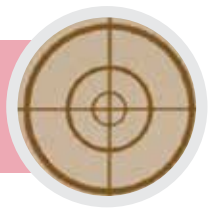
03

**From The Desk Of
Chairperson**



04

In Focus



09

Section 5 & 6 Orders



11

**Judicial
Pronouncements**



12

Eco Watch



13

**Know Your
Competition Law**



14

**Engaging With
The World**



15

Forthcoming Events



16

**Developments In
Other Jurisdictions**



17

Advocacy Initiatives



18

**Capacity Building
Events**



29

HR Corner



FROM THE DESK OF CHAIRPERSON



It gives me immense pleasure to share with you my thoughts and developments in the area of competition law and policy that have taken place during the last quarter. This is the first time since I have taken over as the Chairperson, Competition Commission of India that I am communicating with you through this quarterly newsletter.

Enforcement and Advocacy are the two main pillars on which the edifice of Competition law rests. In the last nine years, our endeavour at the Commission has been to build a culture of competition in markets through effective enforcement of the law and proactive outreach to our stakeholders. We have reached out to our stakeholders in varied ways by organising lectures, workshops, seminars, moot courts and published rich material on the subject of competition law. With an intention to further enhance Commission's advocacy outreach to its stakeholders, an innovative 'Roadshow' initiative has now been undertaken by the Commission.

We at the Commission believe that these 'Roadshows' shall provide a platform for vital dialogue between all the stakeholders so as to enable the Commission to present its perspectives and views on latest developments in the competition enforcement and receive suggestions made by the stakeholders. It also provides opportunity to create

awareness among stakeholders with an ultimate objective of encouraging effective competition compliance. We have successfully conducted three Roadshows so far in the state of Maharashtra, Delhi and Gujarat; and more are in pipeline. The In-focus article of this newsletter provides snippets of deliberations and glimpses of the Roadshows conducted so far.

In this quarter, on the combinations front, Commission approved IHH Healthcare's acquisition of Fortis Healthcare; the combination of Alstom and the mobility business of Siemens and acquisition of Sanyo Special Steel Co. Limited (Sanyo) by Nippon Steel & Sumitomo Metal Corporation.

The quarter gone by also witnessed vital clarifications on some important interpretational issues in competition law by the judiciary. The Supreme Court in the case of CCI vs. Bharti Airtel held that only CCI is empowered to deal with the anti-competitive act from the lens of the Competition Act, 2002. Further, the Division Bench of the High Court of Delhi clarified that officers/directors can be proceeded along with the company under the Act.

During the last quarter, Commission also enhanced its social media presence by actively engaging with its stakeholders through its Facebook, Twitter, LinkedIn handles. We also launched a successful FM Radio campaign on two popular Radio channels. The response

that we have received from our stakeholders towards these initiatives is encouraging. Our social media followers from across the world have shown great interest in the developments of the Competition Commission of India. With an intention to actively engage the stakeholders, innovative info-graphics and animated videos have been prepared and uploaded on our social media accounts and were also displayed during the Delhi and Ahmedabad Roadshow.

Commission has always believed in strengthening its international cooperation with the international competition law agencies. In this last quarter, apart from our officers attending international conferences and seminars, we also organized 'EU-India Competition Week' in December 2018; wherein we hosted the Ambassador of the European Union to India and officers from the European Commission. During this week-long engagement, interesting topics from the anti-trust world were discussed. I believe these deliberations helped professionals from both the jurisdictions in learning from each other's experiences and perspectives on these issues of great importance.

On Capacity Building in the matter of Competition Law in India have always been a top priority for the Commission. In the quarter gone by the Commission has established its first 'chair' at IICA to undertake research activities in the field of Competition Law besides supporting our advocacy efforts.

I look forward to continuing the efforts of the Commission with a heightened zeal and passion, to enhance competition compliance and to promote a culture of competition across all sectors.

(Ashok Kumar Gupta)

IN FOCUS

The Competition Commission of India (CCI/ Commission) in pursuance of its advocacy mandate under Section 49(3) has been undertaking various focused advocacy measures such as organizing interactive workshops and seminars with stakeholders; partnering with universities for organizing moot court competitions and publishing rich competition law literature.

With an intention to effectively enhance Commission's outreach to the stakeholders, to raise awareness about impact of competition law on the stakeholders and to create a conducive competition ecosystem, a series of Roadshows in different parts of the country have been planned by the Commission. As the name suggests, a Roadshow is an event aimed at spreading awareness and information. Roadshows have proved to be an effective method of publicity and awareness for the corporate world in general. It has also been used by competition authorities worldwide e.g. Portuguese Competition Authority (2014), Competition Commission of Pakistan (2015), Philippine Competition Commission (2017) and Competition Council of Lithuania (2017).

Keeping in tune with the international best practices, Commission has already organized three Roadshows in Mumbai, Delhi and Ahmedabad and two more are going to be organized in this financial year.

The First CCI-Roadshow was organised on 15th October, 2018 at Hotel Trident in Mumbai. In the Inaugural Session, the Roadshow witnessed the presence of Sh. Injeti Srinivas, Secretary, Ministry of Corporate Affairs, Sh. Sudhir Mital, former acting Chairperson, CCI, Mr. R. Mukundan Chairman, CII Institute of Quality Advisory Council, Mr. Ajay Bahl, Co-founder & Managing Partner, AZB and Partners, and Ms. Pallavi Shroff, Managing Partner Shardul Amarchand Mangaldas & Co. In the Roadshow, open house sessions were conducted on 'Cartels and Leniency' and 'Merger Control', followed by a talk by Dr. Devdutt Patnaik on 'Competition Law and Mythology'. In the side-lines of the main event, an interaction of CEOs with the Chairperson and Members of the Commission titled "Meeting with the Captains of the Industry" was held. The

Roadshow also featured audio-visual kiosks displaying TV commercials of CCI, Do it Yourself (DIY) tool, advocacy booklets etc.

Secretary, Ministry of Corporate Affairs and Chairman, Board of Governors, IICA Mr. Injeti Srinivas and shared his views on various aspects of competition law on the occasion. Complimenting the Commission for organizing the Roadshow as a measure of creating awareness on the subject, the Secretary stressed upon the demystification of the subject of competition law. Speaking about the benefits of competition, Mr. Srinivas said that competition is the cornerstone of the market economy and offers benefits to all stakeholders, including the government, the consumer and the industry. At the macro level, competition plays an important role to enhancing economic growth and productivity, while at the micro level, it provides increased choices to the consumer, he added.

The Secretary further highlighted the role of competition as an agent of the transformation, as compared to the pre-liberalization era. He noted that one-third of billionaires in the entire world are from India. He said that we need to understand this dimension of competition and realize the necessity to hardwire competition into our business philosophy and our policy framework. He re-called that concentration of economic power in the hands of a few was the factor which led to the enactment of the MRTP Act and the formation of the Competition Commission. Pointing out that India is today among the fastest growing economies in the entire world, thanks to the infusion of competition, Mr. Injeti said that we need to have competitiveness in our country to be able to withstand onslaught of unfair international trade practices.

The Secretary highlighted that the Competition Commission has contributed immensely in the last ten years. The Commission has made a demonstrative effect against the abuse of dominance; taken care of anti-competitive practices by punishing cartels and brought a preventive system in the form of regulatory combinations. But all of these have limitations, and what is really required is promotion of

competitive behaviour, he said.

Mr. Sudhir Mital, former acting Chairperson, CCI articulated the importance and impact of the CCI's orders, citing the voluntary course correction by various enterprises. He noted that the CCI's aim is to achieve fair markets, and the penalties imposed are a means to achieve this end, as this ultimately benefits consumers. He also mentioned the increasing use of the leniency program, and the CCI's hands on approach in facilitating leniency regime in India.

The first session was an Open House on 'Cartels and Leniency'. The session was chaired by Mr. Augustine Peter, Member, CCI. The panel deliberated upon the detection and enforcement of cartels and discussed nuances related to confidentiality provisions and the dawn raids conducted during enforcement. The positive impact of lesser penalty regulations on the enforcement of cartel was also discussed along with the need to develop an effective compliance and competition culture.

The second session was an Open House on 'Merger Control', moderated by Ms. Latha Venkatesh, Executive Editor, CNBC TV18 and chaired by Ms. Smita Jhingran, former Secretary, CCI. The panel deliberated upon the aspects of the present merger and combination regime in India and discussed the challenges which arise in cases of common minority ownerships. The panel also discussed the concept of gun jumping especially in relation to mergers and insolvency. The panellists emphasized that India's competition regime has very quickly learnt and adopted the best practices from the mature jurisdictions, which facilitated ease of doing business in India

During the Roadshow, Dr. Devdutt Pattanaik, noted mythologist, gave a talk on "Competition Law: A Mythological Perspective" wherein he related competition law issues to several stories and tales from different mythologies. He highlighted the difference between the laws of nature and the laws of human society by pointing out that while in the animal kingdom, the strong overpowers the weak, in the human society, laws like competition law are made to uplift the weak.



Glimpses of The First Roadshow

The second Roadshow was organised at New Delhi, dovetailed with National Conference on Public Procurement and Competition Law on 5th of November, 2018. The event was inaugurated by the Chief Guest, Mr. Arun Jaitley, Hon'ble Minister of Finance and Corporate Affairs'. Open house sessions were conducted on Public Procurement and Cartels and Leniency. Other dignitaries present during the inaugural session were Mr. Sudhir Mital, former acting Chairperson, CCI, Mr. Injeti Srinivas, Secretary, Ministry of Corporate Affairs, Government of India Mr. Junaid Kamal Ahmad, Country Director, World Bank India and Dr. Sameer Sharma, Director General & CEO, Indian Institute of Corporate Affairs.

The Roadshow was attended by Chief Secretaries of States, Secretaries to Government of India, CMDs of PSUs, apart from members of trade chambers, legal fraternity and academia – with an attendance of over 350 delegates in total. In line with the previous Roadshow, this Roadshow also featured audio-visual kiosks showing TV commercials of CCI, animation videos, advocacy booklets etc. An Innovative animation video on 'How To Detect Bid Rigging In Tenders' was also displayed at the Roadshow.

The Finance Minister, Mr. Jaitley, in his Keynote Address, said that the competition regulator was established to ensure effective competition so that consumer interest could be protected. While talking about the roadmap for future, he stated that India needs to look at global models and visualise how to deal with emerging situations. Mr. Jaitley stated that public procurement is a very large part of the country's GDP and the State is entitled to have the best price and quality and this also applies to all Statutory Institutions. Mr. Jaitley said that there are areas in which tender bids can be global while in some areas, domestic

development is desirable, especially in case of the service sector in which the effective competition needs to be built within the country itself. He said that with expansion of the economy, India's market expansion is going to have exponential growth and therefore, the role of the Commission as a regulator will also expand with time.

Former acting Chairperson, CCI, Mr. Sudhir Mital also stressed on the importance of building a culture of competition in Public Procurement Systems in India. He said that free, fair and effective procurement can reduce cost of delivery, free resources and make surpluses available, make the PSUs more competitive and allow the public sector to grow. He emphasised on the need for having pro-competitive procurement systems that can reduce the scope of anti-competitive behaviour by the bidders. He also announced that the CCI is in process of designing a Diagnostic Tool for public procurement agencies that would facilitate detection of bid rigging in public procurement as well as help design tenders which would promote fair competition. He also mentioned the digital cartel detection software that the CCI is developing, following the international best practices.

Speaking on the occasion, Mr. Injeti Srinivas, Secretary, Ministry of Corporate Affairs, stated that given the sheer volume of public procurement in GDP, which accounts for more than 26% of GDP i.e. equivalent to around Rs. 28 lakh crore, it has a significant influence on the economy's performance. He said that competitive procurement could result in cost saving to the extent of around 20-30% that could have long term impact on the economy. He added that there is a need to redesign the current PPP model to bring in efficiency and

promote competition. He concluded by saying that competition is the single largest force for growth in a market economy.

In his address, Mr. Junaid Kamal Ahmad, World Bank's India Country Director announced that contracting with the government will be one of the new indicators to be considered by the World Bank in the next round of their Ease of Doing Business ranking. He stressed that improving competition in Public Procurement and e-procurement would facilitate market participation, expand business opportunities for a larger number of players and reduce their processing cost. He stated that India has adopted best global practices in Government e-marketplace which could be emulated by other developing nations.

The first open house session was on 'Infusing Competition in Public Procurement' which was chaired by Mr. Karan Avtar Singh, Chief Secretary, Govt. of Punjab. The Panel agreed that bringing in competition and transparency in public procurement is essential as public procurement forms a large part of the GDP of the country. To bring out the problems and possible solutions in public procurement, the panel discussed several examples such as bidding in Indian Railways and LPG cylinders.

The second open house session focused on 'Bid-Rigging, Cartels and Leniency' and was chaired by Mr. Augustine Peter, Member, CCI. Mr. Augustine Peter began the discussion by explaining the harmful effects cartels have on the competition in market. The panel deliberated upon the detection and enforcement of cartels and emphasised on the importance of dawn raids for collecting evidence against cartels.





Glimpses of the Second Roadshow

The third Roadshow was organised in Ahmedabad on 18th of December, 2018. The event received an impressive attendance of over 400 people, including representatives of the state government, members of trade associations, members of legal fraternity, businessmen and academia. Mr. Vijay Rupani, Chief Minister of Gujarat and Dr. J. N. Singh Chief Secretary, Government of Gujarat were the chief guest and guest of honour respectively. The Roadshow also featured audio-visual kiosks showing TV commercials of CCI, snippets of speeches by guests, display of advocacy booklets etc. An innovative animation video titled 'Dos and Don'ts for the Trade Associations' was also displayed at the event.

Mr. Vijay Rupani, in his Inaugural Address stated that Gujarat has traditionally relied upon competition as an important policy instrument for business facilitation and economic growth. The flourishing of business in the state has been possible as forces of competition have made the industry competitive. The international competitiveness that the state of Gujarat has been able to achieve could not have been possible in

the absence of strong competition amongst the businesses in Gujarat. He highlighted that despite representing only 5 percent of the workforce, the state is contributing 22 per cent of the total exports of the country. He further said that Gujarat is "embracing competition to emerge as Global Manufacturing hub". The Government is also providing support to the growing SME sector through the vast network of GIDC offices upto Tehsil level. The robust SME sector is not only contributing to employment and economic growth of Gujarat but is also making competition much vibrant and broad based. He complimented CCI for hosting the Roadshow in Ahmedabad.

Addressing the participants, Chief Secretary, Gujarat, Dr. J. N. Singh appreciated the CCI's initiative to reach out to states for promoting awareness about competition law. He articulated that government officers in charge of policy formulation would be benefitted by deliberations on public procurement and competition law. He further added that trade and industry which are major actors in the state economy stand to gain immensely by being on the right side of the competition law.

Mr. Ashok Kumar Gupta, Chairman, CCI, in his theme address, mentioned that the Commission has a mandate to eliminate anti-competitive practices and promote competition in the country. He pointed out that the Act and the Commission; both are consumer and business friendly. In his address he stated that the Commission does not intend to come in the way of ease of doing business, or punish businessmen unnecessarily, but only intends to regulate anti-competitive behaviour. For achieving this objective, the Commission has to balance between its enforcement function and the advocacy function - the pillars on which the edifice of this law rests. According to him, advocacy is a continuous process, which requires fusion of efforts by the regulator and the regulated. The Chairman emphasized that as a market regulator, "we appreciate our role as an enabler as much as we see ourselves as an enforcer". He highlighted the importance of building a culture of competition in public procurement systems in India and at the state level. Free, fair and effective procurement has the potential to reduce cost of delivery, free resources and make

surpluses available, make the PSUs more competitive and allow the public sector to grow.

Dr. Jaimin R. Vasa, President, Gujarat Chamber of Commerce and Industry, gave the vote of thanks and expressed his gratitude to the Commission for hosting the Roadshow in Ahmedabad. He touched upon the issue of cartels, prevalent among industry, which create a burden on consumers in form of higher prices and loss of competitiveness for industry.

Deliberations in the Roadshow were divided in two open house sessions. The first session focused on 'Infusing Competition in Public Procurement' and was chaired by Mr. A. M. Tiwari, Additional Chief Secretary, Home Department, Government of Gujarat.

Members of panel shared their experiences of instances of bid rigging in procurement by public sector undertakings and mentioned that the companies come out with smart ways of violating competition law including indulging in arm twisting. It was suggested that companies and government agencies should catalog the data they are receiving from various bidders and they can use this data to understand the pattern in which the bidders participated or suddenly stopped participating, showcasing possible signs of bid rigging.

The second session focused on 'Trade Associations, Cartels and Leniency' and was chaired by Mr. Augustine Peter, Member, CCI. Panel members

discussed that the mere existence of a trade association/union does not necessarily mean that there exists a cartel. It was also stated that while a trade association is a platform for competitors to discuss common problems/issues that face their respective industry, given that competitors closely interact by way of such platforms, competition concerns may likely to arise.

The open house sessions were followed up by a session on 'Vibrant Gujarat'. Advocacy booklets were also distributed to participants. Each of these sessions saw extensive discussions and active participation from the audience as well.





Glimpses of the Third Roadshow

SECTION 5 & 6 ORDERS

IHH Healthcare's acquisition of Fortis Healthcare

On 13th September, 2018, the Commission received a notice from Northern TK Venture Pte. Ltd. (Northern) to subscribe to 31.10% expanded equity capital of Fortis Healthcare Limited (FHL) by way of preferential allotment. Northern is an indirect subsidiary of IHH Healthcare Berhad (IHH), a company incorporated in Malaysia.

IHH is an international provider of integrated healthcare services operating in Malaysia, Singapore, Turkey and India. It provides full spectrum of healthcare services from primary to quaternary healthcare services. IHH operates 7 multi-specialty tertiary hospitals and 2 feeder centres in 5 cities in India. FHL is a public listed company incorporated in India, which directly and through its subsidiaries owns, manages and operates a network of multi-specialty hospitals and diagnostic centres in India and in some other countries. In India, it operates 35 healthcare facilities across 18 cities.

The hospitals are commonly classified

as primary, secondary, tertiary and quaternary based on the facilities offered and level of complexity of treatment. The parties to the combination exhibited a horizontal overlap in each of these four broad segments of care in 4 cities in India, namely, Bengaluru, Chennai, Kolkata and Mumbai. The Commission carried out the assessment in terms of total number of hospitals, total number of relevant operational beds and number of procedures (volumes) for secondary, tertiary and quaternary procedures separately.

Based on the information provided by the Parties, it was observed that the segments of primary care service providers and to a large extent secondary care service providers were highly fragmented with very low individual market share for each service provider.

For tertiary care service providers, at a broader level, the parties considered relevant private operational beds as a metric reflecting the current state of available supply of healthcare infrastructure and based on this metric, the combined market shares of the Parties in the four overlapping

cities was not at a level so as to raise any competitive concerns. However, for the tertiary level of care, at a narrower level, it was the procedures or specialities offered by the hospital which attracted the patients and hence, the volume of procedures carried out was considered. The Parties exhibited overlaps in various specialities such as urology, neurology admissions, on co-surgeries, cardiology, joint replacement etc. Market shares for each of these overlapping specialities in each city was assessed based on the total number of procedures carried out by all relevant hospitals (i.e. tertiary corporate hospitals, standalone hospitals and trusts/autonomous hospitals as well as secondary – small hospitals and nursing homes). The combined market shares of the parties post the Combination across specialities was not significant in any of the overlapping cities.

Further, the parties identified organ and tissue transplants as procedures at the quaternary level of care and each of these procedures were assessed separately as segments. The market for most of these complex procedures

such as transplants of heart, liver, lungs etc. is at a very nascent stage in India and it was observed that, considering their nature, such procedure(s) at this stage may not give rise to competition concerns.

While FHL operate private retail diagnostic centres through its subsidiary SRL Limited, IHH group operates in-house diagnostic centres which were entirely captive in nature. Further, there were large organized players offering diagnostic services as well as large number of unorganized and fragmented players in the retail diagnostic market.

Parties also stated that Apollo Gleneagles Hospital in Kolkata is a 50:50 joint venture (JV) between IHH's subsidiary Gleneagles Development Pte. Ltd. (GDPL) and Apollo Group. At present, the IHH (along with its group entities), JV partner i.e. Apollo and FHL were competitors in the overall field of healthcare and were present throughout India and in many of the overlapping cities. In order to alleviate any potential concern that the said JV may provide a common platform for coordinated behaviour, IHH had submitted certain voluntary commitments such as commitment to operate as separate, independent and competitive businesses.

Considering the facts on record and the voluntary commitments offered IHH/Northern, the Commission approved the transaction under subsection (1) of Section 31 of the Act.

Combination of Alstom and the mobility business of Siemens

On 20th July, 2018, the Commission received a notice jointly given by Siemens Aktiengesellschaft ("Siemens") and Alstom S. A. ("Alstom") (Collectively referred to as the "Parties") in relation to the proposed combination of the mobility businesses of Alstom and Siemens. As a result of the proposed combination, Siemens was to acquire sole control over Alstom.

Siemens is a publicly held German stock corporation with its shares quoted on the Frankfurt am Main, Germany and Xetra stock exchanges. The mobility business of Siemens provides products, solutions, and services regarding the transportation of people and goods by rail and road. Alstom, a company organised under the laws of France, is listed on the Euronext Paris Stock Exchange. It is *inter alia* engaged in the business of products, services and solutions

relating to rail transport industry, personalised services and digital mobility and signalling solutions

The mobility businesses of the Parties include products, services and solutions relating to mainline (intercity e.g. Indian Railways network) as well as urban (intracity e.g. Metro Rail network) railway transportation. In the mobility business, Parties have a wide product portfolio and competed in tenders for the manufacture and supply of signalling solutions, rail electrification solutions and supply of rolling stock.

Signalling systems provide safety controls on rail networks. These systems prevent trains colliding with one another by preventing two trains from meeting on the same section of track. Although there appears to be some degree of supply-side substitutability between mainline and urban signalling, however, there are differences in technology and specifications, customers, standards of systems, and size of the project. In view of the above, the segments of mainline signalling and urban signalling were assessed separately.

Rail electrification encompasses power supply and contact line systems for urban and mainline railways. In simple words, rail electrification provides traction energy to trains. The transmission of power is provided along the track by way of overhead wire or at ground level, using an extra third rail laid close to the tracks. Further, similar to signalling, there could exist separate product markets for urban and mainline rail electrification considering the difference in conditions of competition for these two segments on account of different customer base and distinction between OEMs and non-OEMs.

Rolling stock refers to the various vehicles that travel on railway networks, whether powered or not (i.e. self-propelled). Such "rolling stock" includes high speed trains, mainline trains, trams / light rail vehicles, metros, locomotives and passenger coaches. The rolling stock segment may be further divided into the following categories: (a) mainline rolling stock; (b) urban rolling stock; and (c) locomotives.

With regards to the geographic segmentation, the Commission was of the opinion that the scope of the relevant market for each of the above segment extends to the whole of

India. However, since, the Proposed Combination does not raise any competition concerns under any potential market segmentation, the definition of the relevant product and geographic market was left open.

In relation to signalling and rail electrification solutions, the Commission observed that combined market share of the Parties, in terms of order intake value during 2013-17, was not significant enough to raise any competition concerns. Further, given that both the aforementioned segments were bidding markets, the Commission also considered and analysed the past bidding data and observed that other significant and large players were competing in terms of bidding as well winning the contracts/tenders.

With regards to the further segmentation at the product level in signalling solutions, the Commission noted that there is no overlap between the Parties for supply of signalling products as Alstom did not have any such sales in the last five years. The Commission also considered a possible segmentation of signalling market based on size of the project. However, in this regard, it was observed that the majority of customers were not aware about signalling suppliers that are not capable of bidding for projects with a size above a certain threshold. Therefore, the Commission did not further segment the urban and mainline signalling based on size of projects.

In respect of mainline rolling stock, it was noted that there are no bidding and/or order intake overlaps between the Parties. In respect of urban rolling stock, it was noted that there has been no order intake or bidding overlap (except one tender in 2013, which was won by a competitor) between the Parties during the last five years. The market share of Alstom in this segment was [10-15]% and Siemens do not have any order intake during 2013-17. In respect of locomotives, it was noted that whilst Alstom is active in locomotives in India, Siemens has not supplied complete locomotives in India till date. Therefore, there was no market share overlap between the Parties in respect of locomotives during the last five years. Further, as per the data given by the Parties there was a limited bidding overlap relating to a single locomotives project in 2015. Market investigation also revealed that there was sufficient number of competitors for supply of rolling stock in India.

In view of the foregoing, the Commission approved the combination under sub-section (1) of Section 31 of the Act.

Acquisition of ~ 51 % shareholding in Sanyo Special Steel Co. Limited (Sanyo) by Nippon Steel & Sumitomo Metal Corporation (NSSMC) and transfer of NSSMC's 100 percent shareholding in Ovako AB (Ovako) to Sanyo.

On 4th September, 2018, the Commission received a notice from NSSMC, relating to the acquisition of 51.5 percent shareholding in Sanyo by NSSMC and transfer of NSSMC's 100 percent shareholding in Ovako, a wholly owned subsidiary of NSSMC, to Sanyo, pursuant to execution of an Agreement on the Conversion to Subsidiary and Other Matters dated 2nd August, 2018 by and between NSSMC and Sanyo (Proposed Combination).

Subsequently, considering the composite nature of the Proposed Combination, the Commission was informed that Sanyo may also be considered as an acquirer and accordingly the notice for the Proposed Combination be treated as jointly filed by NSSMC and Sanyo. The Commission considered the same and decided to take the information on record.

NSSMC, headquartered in Japan, is engaged, *inter alia*, in the manufacturing and sale of steel products. Its products are used in automobiles, resources and energy, construction and civil engineering, railways, ship building etc. In India, NSSMC is engaged in manufacturing and sale of tubes and pipes, automotive cold rolled steel sheets, crankshafts and auto-parts. NSSMC also imports and sells products such as wires, steel sheets, welding materials etc.

Sanyo, headquartered in Japan, is stated to be one of the leading manufacturers of special steel products in Japan. Sanyo's main business segments include manufacturing and sale of (i) special steel products; (ii) special materials i.e., heat/corrosion resistant alloys and power metallurgy products etc.; and (iii) formed and fabricated materials viz., cut rings produced from cutting special steel tubes with high precision forged rings/forged products/rolled products made from steel bars, and cold rolled formed rings made from ring material. Its special steel products focus on automobiles, industrial machinery, railways and wind power generation equipment. Sanyo is present in India in special steel products and fabricated materials.

Ovako, a manufacturer of steel situated in Sweden is a wholly owned subsidiary of NSSMC and is engaged in sale of steel mainly in the European market. As submitted, Ovako does not have any manufacturing unit in India but has made sales of bars, pipes and rings in India.

In accordance with the decisional practice of the Commission in cases relating to steel sector, the activities of the parties overlap in respect of sale of certain special steel products in India, viz., (i) specialty steel bars; (ii) seamless pipes; and (iii) rings.

The Commission observed that combined market share of parties is less than 20 per cent and incremental share is less than 5 per cent in the market for speciality steel bars and seamless pipes. Further, the combined entity will continue to face competitive constraints from other competitors. As regards the market for rings, the Commission observed that based on market share estimates submitted by the parties the existing presence of Ovako and estimated sales volume of Sanyo in this product segment does not appear to be significant enough to cause any appreciable adverse effect on competition.

Considering the facts on record and the details provided in the notice, the Commission approved the combination under sub-section (1) of Section 31 of the Act.

JUDICIAL PRONOUNCEMENTS

Examination of anticompetitive conduct within the exclusive domain of CCI

CCI had ordered an investigation into the alleged cartelization between various telecom service providers through the platform of Cellular Operators Association of India. Upon challenge, the High Court of Bombay had set aside the direction passed under Section 26(1) of the Act on the ground that CCI had no jurisdiction. The Supreme Court in its judgment dated 5th December, 2018 in CCI vs. Bharti Airtel held that only CCI is empowered to deal with the anti-competitive act from the lens of the Act. The Court noted that the unique feature of CCI is that it is not a sector based body but has jurisdiction which transcends sectoral boundaries, thereby covering all the industries, with focus on the object and purpose behind the Act.

The Apex Court further recognised that the specific and important role assigned to CCI cannot be completely wished away and the 'comity' between the sectoral regulator (i.e. TRAI) and the market regulator (i.e. the CCI) is to be maintained. SC also held that the High Court of Bombay was competent to deal with and decide the issues raised regarding jurisdiction in exercise of its power under Article 226 of the Constitution. However, the High Court would not be competent to adjudge the validity of a direction passed under Section 26(1) of the Act on merits.

Officers/Directors can be proceeded along with the Company

The Division Bench of the High Court of Delhi *vide* order dated 18th December, 2018 clarified that the officers/directors can be proceeded along with the company under the Act as the scheme of the Act does not contemplate separate

proceedings. The Court thus agreed with the conclusion in Pran Mehra v. CCI and Anr and Aneeta Handa vs. Godfather Travels. The order was passed in appeals that were filed by Monsanto Company and Mahyco Monsanto Biotech (India) Private Ltd. The Appellants *inter alia* submitted that the Scheme of the Act does not contemplate punishment of the Directors / Officers of a company under Section 27 of the Act and that the categories of orders that can be passed under Section 27 of the Act can only be directed against an 'enterprise' and not against individual Directors / officers. The Court held that on a perusal of Section 27 of the Act, it is clear that it stipulates that the CCI on a finding that there is a contravention of Section 3 or Section 4 of the Act, can pass orders against an 'enterprise' and a 'person' i.e. individual, who has been proceeded against, imposing penalty.

Recent Developments in the Rules on FDI in E-commerce in India

In recent years, e-commerce has become a vital segment of the economy, driving substantial growth. India's e-commerce market is estimated to be \$ 33 USD billion in fiscal year 2017-18 with a 19.1% growth rate over 2016-17 (Economics Survey, 2017-18). Online retail constituted 2.5% of total retail in 2016 and is expected to grow to 5% of total retail by 2020 (IBEF Report, 2018).

The wide spread use of mobile devices, in particular, has greatly expanded the reach of the internet in society, contributing to the growth of this sector. Many other factors including rapid adoption of information technology by Indian consumers, large increase in the number of internet users, emergence of new enabling technologies, innovative business models and alternative payment options offered by e-commerce companies are also responsible for this growth. On the one hand, advent of internet and online markets has led to increased transparency, ameliorating the problems of 'information asymmetries' and lowering the search costs for consumers, on the other hand, it has brought forth a gamut of novel questions before the competition authorities as they create a nuanced and sound analytical framework for such markets.

Online markets have a wide geographic scope enabling a large number of competitors to compete for a large consumer base. The fierce competition is likely to result in better quality, increased choices and reduced prices for consumers. However, the increase in the proportion of online buyers and economic activities throws up certain challenges on competition front for the competition regulators. Issues of deep discounting and preferential treatment to specific retailers by large market platforms have been brought to the notice of the

Commission. Some of these issues fall within the scope of the Competition Act, 2002 while some are a result of the subversion of FDI rules related to e-commerce by the e-commerce companies.

The policy on FDI in e-commerce allows 100% equity through automatic route for Business to Business (B2B) e-commerce. No FDI is allowed for Business to Consumer (B2C) e-commerce. Para 5.2.15.2 of the consolidated FDI policy, 2017 further stipulated that e-commerce entity will not permit more than 25% of the sales value through its marketplace from one vendor or their group companies, and e-commerce entities providing marketplace platforms will not directly or indirectly influence the sale price of goods or services, and shall maintain level playing field.

However, there were concerns about e-commerce platforms circumventing the FDI policy by adopting circuitous corporate structures, providing deep discounts to some of their B2C retailers via the e-commerce platforms' wholesale entities. There were also apprehensions that e-commerce platforms are giving preferential treatment to some of these retailers on their platforms and pushing their sales. It was contended that the online platforms are destroying level playing field and therefore, skewing the competition in favour of some players.

The Commission, *vide* its order dated 8th August 2018 in the Walmart-Flipkart combination matter (C-2018/05/571), observed that a "small number of sellers in Flipkart's online marketplaces contributed to substantial sales. Almost all of these were customers of Flipkart in B2B segment and hence were common customers; availing significant discounts from Flipkart in both B2B segment as well as in the online marketplaces. Further, the revenue earned from these common customers in the online marketplaces

was relatively less vis-à-vis the non-common sellers whose sales on the platform were considerably low." The Commission further observed that "majority of the concerns expressed in the representations referred above have no nexus to the competition dimension of the proposed Combination.....However, this is a matter of consideration for the appropriate regulatory/ enforcement authority. The issues concerning FDI policy would need to be addressed in that policy space to ensure that online market platforms remain a true marketplace providing access to all retailers". The Commission noted the possibility of preferential treatment being given by online platforms to some retailers and was also approached by All India Online Vendors Association in this regard in relation to case no. 20 of 2018 against Flipkart India Private Limited and Anr. However, in the said case the Commission did not find Flipkart to be in a dominant position in the relevant market of "services provided by online marketplace platforms for selling goods in India" and the matter was closed under the provisions of section 26 (2) of the Act .

In order to develop an appropriate regulatory framework for the e-commerce sector and to address the issues in the FDI policy, the Department of Commerce, Government of India established a Think Tank on "Framework for a National Policy on E-commerce". The Commission also actively participated in the task force to deliberate on the e-commerce policy and gave recommendations accordingly. A draft policy on E-commerce was released during July 2018, which is subjected for further revision.

The Department of Industrial Policy and Promotion (DIPP), Government of India in the latest update to the FDI policy in E-commerce, brought changes to ensure level playing

field for small and larger retailers on the online marketplaces. Although the prohibition with respect to FDI in B2C e-commerce remained unaltered, certain other changes were introduced. Such changes includes: (i) no entity having equity participation by an e-commerce marketplace or its related entities can sell on that marketplace, (ii) the marketplace itself cannot discriminate among vendors, and (iii) a vendor on the e-commerce platform cannot have 25% of its purchases from the marketplace entity or its group companies.

The new rules would have an impact on retailers who have equity participation by e-commerce marketplace and their group companies. The rules may also have an impact on backend operations of the e-commerce entity, as group entities would have to be removed from the e-commerce value chain. The changes to the FDI policy may also decrease the incentive for online market platforms to discriminate retailers on their platforms. The changes will ensure that market platforms do not have any conflict of interest in providing retailers

a level playing field on their platforms as they would no longer be able to promote retailers linked with them. The rules also clarify that provision of services to any vendor on such terms which are not made available to other vendors in similar circumstances will be deemed unfair and discriminatory. Thus, the apprehensions about deep discounting and preferential treatment to selective vendors will be allayed by the new rules. However, for the e-commerce market to realign and to sustain fair competition, effective monitoring is required.

KNOW YOUR COMPETITION LAW

Sectoral Regulators and Competition Commission of India

The expertise of a sector regulator is restricted to the specific area that they regulate. The Competition Commission of India, however, is the regulator for competition law in India cutting across all sectors. Section 60 of the Act states that the provisions of the Competition Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. However, certain regulators have also been given the responsibility to ensure competition in the sector that they govern. As a result, when CCI considers cases pertaining to such sectors, the orders are challenged before the judicial forums citing lack of jurisdiction.

In *Telefonaktiebolaget LM Ericsson vs. CCI*, writ petitions were filed by *Telefonaktiebolaget LM Ericsson (Publ)* ('Ericsson'), impugning the decisions dated 12th November, 2013 and 16th January, 2014 passed by CCI under Section 26(1) of the Act. In the informations it was alleged by *Micromax Informatics Ltd* and *Intex Technologies (India) Ltd*. Separately that Ericsson, which has a large portfolio of Standard Essential Patents ('SEPs') in respect of technologies

that are used in mobile handsets and network stations, has abused its position of dominance.

The High Court of Delhi held that the Competition Act, 2002 and Patents Act, 1970 are special acts operating in their respective fields. However, the Patents Act would be a special act, vis-à-vis, the Competition Act in so far as patents are concerned. If there are irreconcilable differences between the Patents Act and the Competition Act in so far as anti-abuse provisions are concerned, the Patents Act being a special act shall prevail notwithstanding the provision of Section 60 of the Competition Act. It may be open for a prospective licensee to approach the Controller of Patents for grant of compulsory licence in certain cases. But the same is not inconsistent with the CCI passing an appropriate order under Section 27 of the Competition Act.

The Court also clarified that merely because a set of facts pleaded in a suit may also be relevant for determination whether Section 4 of the Competition Act has been violated, does not mean that a civil court would be adjudicating that issue. The Court dismissed the writ petitions. The appeal is pending before the Division Bench of the High Court of Delhi.

The Supreme Court in December 2018 while giving its order in *Competition Commission of India vs. Bharti Airtel* highlighted that comity between the sectoral regulator (i.e. TRAI) and the market regulator (i.e. the CCI) is to be maintained. In this case, CCI had ordered an investigation into the alleged cartelization between various telecom service providers and Cellular Operators Association of India ('COAI'). CCI found that there exists a prima facie contravention of Section 3(3)(b) of the Competition Act, as *Bharti Airtel Limited*, *Vodafone India Limited* and *Idea Cellular Limited* (collectively referred to as 'Incumbent Dominant Operators'/'IDOs) appear to have entered into an agreement amongst themselves, through the platform of COAI, to deny points of interconnection ('POIs') to *Reliance Jio Infocomm Limited* ('RJIL'). Denial of mobile number portability to existing customers of IDOs, seen in conjunction with the concerted behaviour of refusing/delay in POIs to RJIL, also prima facie appeared to be contravention of Section 3(3)(b) of the Act.

Upon challenge in writ, the High Court of Bombay had set aside the direction passed under Section 26(1) of the Act on the ground that CCI had

no jurisdiction. The Court held that the Competition Act and the Telecom Regulatory Authority of India, Act 1997 ('TRAI Act') are independent statutes. There is no conflict of the jurisdiction to be exercised by them. But the Competition Act itself is not sufficient to decide and deal with the issues, arising out of the provisions of the TRAI Act and the contract conditions, under the Regulations. The Court also observed that every aspects of development of telecommunication market are to be regulated and controlled by the concerned Department/Government, based upon the policy so declared from time to time, keeping in mind the need and the technology, under the TRAI Act. Therefore the Competition Act cannot be used and utilized to interpret the contract conditions/policies of telecom Sector/Industry/Market, arising out of the Telegraph Act and the TRAI Act.

The Supreme Court noted that the unique feature of CCI is that it is not sector based body but has the jurisdiction across which transcends sectoral boundaries, thereby covering all the industries, with focus on the object and purpose behind the Competition Act. It is only the CCI which is empowered to deal with the anti-competitive act from the lens of the Competition Act. It is within the exclusive domain of the CCI to find out as to whether a particular agreement will have appreciable adverse effect on competition within the relevant market in India. It was noted that CCI is the experienced body in conducting competition analysis and is more likely to opt for structural remedies which would lead the sector to evolve a point where sufficient new entry is induced thereby promoting genuine competition. The Court concluded that TRAI as an expert regulatory

body once has adjudicated on the jurisdictional aspects which leads to a prima facie conclusion that the telecom operators have indulged in anti-competitive practices, CCI can go into the question as to whether violation of the provisions of TRAI Act amounts to 'abuse of dominance' or 'anti-competitive agreements' going by the criteria laid down in the relevant provisions of the Competition Act.

The Supreme Court also held that the High Court was competent to deal with and decide the issues raised regarding jurisdiction in exercise of its power under Article 226 of the Constitution. However, the High Court would not be competent to adjudge the validity of a direction passed under Section 26(1) of the Act on merits. Thus, the Apex Court has clarified the primacy of CCI in inquiring into anti-competitive conduct even in sectors regulated by other sectoral regulators.

■ ENGAGING WITH THE WORLD

CCI officials participated in various workshops/seminars/meetings, some of which are as follows:

1. Dr. K. D. Singh, Joint Director (Law) attended Secondment at Competition Bureau, Canada during 1st-30th October 2018 in Gatineau, Quebec, Canada.
2. Mr. P. K. Soni, Joint Director General & Ms. Jyotsna Yadav, Deputy Director (FA) participated in ICN Cartel Workshop during 15th - 18th October 2018 in Tel Aviv, Israel.
3. Ms. Smita Jhingran, Secretary attended 5th Lisbon Conference on Competition Law and Economics during 18th - 19th October 2018 in Lisbon, Portugal.
4. Mr. Rakesh Kumar, Director (Eco) & Mr. Kuldeep Kumar, Joint Director (Law) participated in New Advanced Economics Institute on Platforms during 21st-24th October 2018 in Tokyo, Japan.
5. Ms. Payal Malik, Adviser (Eco) participated the 24th International Seminar on competition, organized by IBRAC and 1st BRICS Meeting of Working Group on Digital Economy by CADE, Brazil in Sao Paulo , Brazil during 24th - 26th October 18.
6. Mr. Mohan Rao Ronanki, Joint Director (Eco) and Mr Arvind Kumar Anand , Deputy Director (Eco) attended 2018 ICN Unilateral Conduct Workshop during 1st - 2nd November 2018 in Stellenbosch, South Africa.





7. Mr. Manish Mohan Govil, Adviser (Law), Mr. Vipul Puri, Deputy Director (FA) and Mr. Sachin Goyal, Deputy Director (FA) participated in 2018 ICN Merger Workshop during 7th - 8th November 2018 in Tokyo, Japan.



8. EU-India Competition Week was organized during 10th - 13th December 2018 at the 10th Floor Conference Room, CCI, Kidwai Nagar (East). Competition Week commenced with opening remarks from Mr. Tomasz Kozlowski, Ambassador of the European Union to India and Mr. Ashok Kumar Gupta, Chairperson, CCI. Mr. Augustine Peter, Member, CCI & Mr. Torben Toft, Senior Expert, Directorate-General for Competition, European Commission delivered the closing remarks. The nominated officers attended the training and participated in the discussions during the sessions.



■ FORTHCOMING EVENTS

1. The Competition Commission of India will be organising its fourth edition of National Conference on Economics of Competition Law on 1st March, 2019 at India Habitat Centre, New Delhi.
2. CCI 4th Road Show on Competition Law is proposed on 25th February, 2019 at Hyderabad.
3. CCI, in association with Society of Indian Automobiles Manufacturers (SIAM), will be organising a Workshop on Competition Issues in Automobile Industry in New Delhi on 8th March, 2019.
4. CCI will be organising a Refresher Course for its officers in New Delhi between 18th and 21st February, 2019.
5. Officers from CCI would conduct workshop on competition law at Nirma University Ahmedabad on 17th January, 2019.
6. An officer from CCI would deliver lecture on competition law at RBI staff College Chennai on 8th February, 2019.
7. Two officers from CCI would deliver lecture on competition law at SVKM Pravin Gandhi College of Law, Mumbai on 13th February, 2019.
8. An officer from CCI would deliver lecture on Public Procurement and Competition Law at Bharat Coking Coal Limited (BCCL) Dhanbad on 12th February, 2019.
9. CCI-NLU Delhi moot court will be held during 8th-10th March, 2019.
10. Officers from CCI would judge moot court competitions at Faculty Law Centre, Delhi University, DSNLU Vishakhapatnam, NLU Jodhpur, TNNLU Tiruchirappalli during Feb-March, 2019. CCI will also sponsor the prize money and provide logo support for these events.

DEVELOPMENTS IN OTHER JURISDICTIONS

FTC Imposes Conditions in Joint Venture among Three Producers of PET Resin

Three Polyethylene terephthalate or PET resin producers have agreed to restructure their transaction and to accept certain other conditions to settle Federal Trade Commission charges that their proposed \$1.1 billion joint acquisition out of bankruptcy of an under-construction PET production facility would violate federal antitrust law.

PET, is a plastic polymer used primarily to make bottles and packaging for food and other products. The PET production facility has remained unfinished since its original manufacturer, M&G Chemicals S.A., filed for bankruptcy in 2017. Mexican company Alpek S.A.B de C.V., known as DAK, Thailand company Indorama Ventures Plc, and Taiwanese company Far Eastern New Century, or FENC, formed a joint venture company, Corpus Christi Polymers LLC, or CCP, to bid for M&G's PET production facility out of the bankruptcy process. In March 2018, the bankruptcy court approved the sale to the three-way joint venture, which intends to complete construction of the PET production facility.

According to the FTC's complaint, without a remedy, the proposed acquisition likely would substantially lessen competition in the highly concentrated market for PET resin products in North America. The terms of the proposed consent order seek to prevent DAK, Indorama, and FENC from using their joint ownership of the assets to act alone or in concert to exercise market power, or to transmit competitively sensitive information beyond what is necessary to accomplish the legitimate purposes of the joint venture.

When construction is finished, the Corpus Christi plant will produce not only PET, but also purified terephthalic acid, or PTA, a key input for PET production. Completion of this more efficient facility will significantly expand PET and PTA capacity and output in North America, benefiting consumers.

"The Commission's order removes uncertainty about the future of the plant while mitigating the competitive risk created by its sale to the joint venture," said Bruce Hoffman, Director of the Bureau of Competition. "This remedy ensures necessary support and funding for timely completion of what will be the country's lowest-cost PET plant."

Further details about the consent agreement, which allows the Commission to appoint a monitor, are set forth in the analysis to aid public comment for this matter.

The Commission vote to issue the complaint and accept the proposed consent order for public comment was 5-0.

Full Federal Court dismisses ACCC appeal against Medibank

An appeal by the ACCC against a Federal Court judgment in relation to Medibank Private Limited (Medibank) has been dismissed by the Full Federal Court.

The ACCC alleged Medibank made false, misleading or deceptive representations and engaged in unconscionable conduct in relation to its failure to notify Medibank's, and its subsidiary ahm's, members of its decision to limit benefits for in-hospital pathology and radiology services, despite representing across a number of its communication and marketing materials that it would.

The Federal Court dismissed these allegations in August 2017, prompting the ACCC to lodge an appeal to the Full Federal Court. Although the Full Court held that Medibank acted harshly and unfairly, it found this is not enough to establish statutory unconscionability.

"The ACCC brought this appeal to seek clarity from the Full Federal Court on whether it was acceptable for Medibank to choose not to fully inform consumers, including members with chronic health conditions, in advance about important changes to their private health insurance cover," ACCC Chair Rod Sims said.

"Having a clear and unambiguous understanding of what is included in a health insurance policy is essential to all Australians."

"Despite today's result, we are committed to taking action against businesses, including private health insurers, if we have evidence they are misleading their customers," Mr Sims said.

The ACCC is carefully considering the Full Federal Court's decision.

Background

Ahm is a subsidiary health insurance brand of Medibank Private Limited.

Medibank is Australia's largest private health insurer and has approximately 3.7 million members through its Medibank and ahm brands. The conduct affected most Medibank and ahm hospital policies in place from 1 January 2012 to 15 June 2016.

From at least 1 January 2012, Medibank had agreements with many pathology and radiology providers who supplied services to hospital patients (such as blood tests, x-rays, CT scans and MRI scans). Under these agreements, when these providers charged above the Medicare Benefit Schedule (MBS) fee, known as 'the gap', Medibank paid the gap on behalf of ahm and Medibank customers.

From 1st September 2014, Medibank terminated or phased out these agreements. As a result of the agreements

no longer being in force, Medibank and ahm members were no longer completely covered for in-hospital pathology or radiology services, and had to pay the gap as an out-of-pocket expense.

KFTC orders Agoda and Booking.com to revise their 'no refund' policy

The Korea Fair Trade Commission (KFTC) has urged consumers to take extra care when booking hotels via Agoda and Booking.com. KFTC imposed corrective orders on the two global hotel booking sites Agoda company Pte. Ltd and Booking.com B.V over their no-refund consumer contract clauses.

The KFTC decided to impose corrective orders on Agoda and Booking.com on October 31, 2018 as the KFTC imposed a recommendation to amend their no-refund consumer contract clauses on November 1st 2017, but they refused to implement it without valid reasons. The measures are expected to correct the unfair consumer contract clauses of global booking sites that cause consumer damage, establish a sound transaction order in the online booking platform market and contribute to prevention of consumer damage.

EU Commission closes investigation into Brussels Airlines and TAP Air Portugal codeshare agreement on Brussels-Lisbon route

The European Commission has decided to close its antitrust investigation into a codeshare agreement between Brussels Airlines and TAP Air Portugal relating to the Brussels-Lisbon route, which the Commission was carrying out on its own initiative. On 27th October 2016, the Commission adopted a Statement of Objections against the two airlines, raising preliminary concerns that their codeshare cooperation on passenger services between Brussels and Lisbon may have restricted competition between them. The closure decision is based on a thorough analysis of all relevant evidence, including information received from the two airlines in their replies to the Statement of Objections and during an oral hearing, which took place in May 2017. The Commission concluded that the evidence collected was not sufficient to confirm its initial concerns and has therefore decided to close its investigation. Throughout the investigation, the Commission emphasised that its concerns related to certain specific features of this particular codeshare, rather than to codeshares in general. However, today's closure decision does not mean that close forms of cooperation between competing airlines will not raise competition concerns. Finally, it should be noted that since 2014 new airlines have begun to compete with the code-sharing airlines on the Brussels-Lisbon route, to the benefit of consumers.

ADVOCACY INITIATIVES

Advocacy Initiatives with Central Government, State Governments and PSUs

- i. Mr. Anand Vikas Mishra, Deputy Director delivered lecture on competition law to trainee officers during a program in The National Academy of Customs, Indirect Taxes and Narcotics (NACIN), Faridabad on 3rd October, 2018.
- ii. Mr. Mukul Sharma, Deputy Director delivered lecture on competition law in a program organised by Government e-marketplace (Gem) in New Delhi on 9th October 2018.
- iii. Mr. Vipul Puri, Deputy Director delivered lecture on competition law at Mahatma Gandhi State Institute of Public Administration MGSIPA, Chandigarh on 10th October 2018.
- iv. Ms. Bhawna Gulati, Deputy Director delivered lecture on competition law at MGSIPA, Chandigarh on 18th October 2018.
- v. Mr. Saurabh, Deputy Director delivered lecture during a session on competition law lecture at National Telecommunications Institute for policy research innovation and training (NITPRITI) Ghaziabad on 25th October, 2018.
- vi. Mr. Rakesh Bhanot, Adviser delivered lecture during a session on competition law at National Academy of Audit and Accounts (NAAA) Shimla, on 25th October, 2018.
- vii. Mr. Vijay Bisnoi, Deputy Director delivered lecture during a session on competition law at NIFM Faridabad on 26th October, 2018.
- viii. Mr. Manoj Pandey, Adviser participated in workshop titled "Andhra Pradesh: Building the Nation's First Justice City" organised by Govt. of Andhra Pradesh at New Delhi on 30th October, 2018.
- ix. Ms. Sayanti Chakrabarti, Joint Director delivered lecture on Public Procurement and Competition issues during a program organised by Bharat Heavy Electrical Limited (BHEL) at Noida on 2nd November, 2018.
- x. Mr. Vipul Puri, Deputy Director delivered lecture on competition law in orientation program organised by Department of Public Enterprises, Govt. of India at Dibrugarh on 18th December, 2018

Advocacy Initiatives with Trade Associations and Institutions

- i. Ms. Jyoti Jindgar, Adviser delivered Guest Lecture at program titled "Advance Level Course on Economics of Competition Law & Policy" organised by Consumer

and Unity and Trust Society Jaipur on 10th October, 2018.

- ii. Ms. Sayanti Chakrabarti, Joint Director was speaker for Panel Discussion on topic Positioning India as a High Quality Global Manufacturing Hub for the Pharmaceutical Sector at CII 15th National Pharma Conclave, New Delhi on 19th November, 2018.
- iii. Mr. Manoj Pandey, Adviser(Law) was a speaker at the LES Asia Pacific Regional Conference in the Session on "Intellectual Property and Competition Law" at New Delhi on 13th November, 2018.
- iv. Ms. Payal Malik, Adviser took session on "Economics of Platform Market" and "Interface between IP Innovation and Competition Law" during 4th Winter School on Economics of Competition organised by CIRC at New Delhi on 15th December, 2018.

Advocacy Initiatives with Universities/Professional bodies

- i. Mr. Manish Mohan Govil, Adviser delivered lecture on competition law during Scope-ICSI Training program at New Delhi on 5th October, 2018



- ii. Dr Bidyadhar Majhi, Director conducted a workshop on "competition law in India: emerging challenges and issues" at KIIT University, Bhubaneswar on 5th October, 2018.



- iii. Mr. Sekhar, Joint Director delivered lecture on competition law at Maharashtra National Law University, Aurangabad on 6th October 2018.
- iv. Mr. Arvind Kumar Anand, Deputy Director delivered lecture on competition law at a program organised by Institute of Cost Accountant of India in Chandigarh on 7th October, 2018.
- v. Mr. V. Sriraj, Deputy Director delivered lecture on competition law at Dr. Ram Manohar Lohiya National Law University RNLNLU, Lucknow on 13th October, 2018
- vi. Mr. Anil, Deputy Director delivered lecture on competition law at KR Manglam University Gurugaon on 2nd November 2018.



- vii. Mr. Kuldeep Kumar, Joint Director was the judge for the finals and Mr. Arvind Kumar Anand, Deputy Director was judge for semi-finals for Moot Court Competition organised by NLU Bhopal on 9th December, 2018.

- viii. Ms. Payal Malik, Adviser delivered lecture on Competition Law and Indian Business Delhi University on 14th December, 2018.

Other Major Events

- i. 11 students underwent internship during the period.
- ii. CCI organised 1st Road Show on competition law on 15th October, 2018 at Mumbai. Chairperson, Members and senior officers of the Commission were present during the event.
- iii. CCI organised National Conference on Public Procurement and Competition Law as a part of series of Road Shows on competition law on 5th November, 2018 at New Delhi. Mr. Arun Jaitley, Hon'ble Minister of Finance and Corporate Affairs delivered keynote address as Chief Guest. Mr. Sudhir Mital, former acting Chairperson, CCI and Mr. Injeti Srinivas, Secretary, Ministry of Corporate Affairs addressed the gathering at the inaugural session. Members and senior officers of the Commission were present during the event.
- iv. CCI organised Third Road Show as a part of series of Road Shows on competition law on 18th December, 2018 at Ahmedabad. Mr. Vijay Rupani, Hon'ble Chief Minister of Gujarat was the Chief Guest and Dr. J. N. Singh, Chief Secretary, Govt. of Gujarat was Guest of Honour at the event. Mr. Ashok Kumar Gupta, Chairperson, CCI addressed the gathering at the inaugural session. Members and senior officers of the Commission were present during the event.

CAPACITY BUILDING EVENTS



- i. CCI organized lecture by Mr. Amitabh Kant, CEO, Niti Aayog on the topic 'The Path Ahead: Transformative Ideas for India' under the Distinguished Visitor Knowledge Sharing Series (DVKS) on 31st October, 2018 at CCI premises.
- ii. CCI organized a short workshop on 'Drafting of Order/ Legal Texts' by Prof. (Dr.) B. T. Kaul, Ex-Chairperson, Delhi Judicial Academy on 5th October, 2018 at CCI premises.
- iii. CCI conducted following attachment programs for Indian Corporate Law Service (ICLS) Officer Trainees (8th Batch):
 - a. 2-day attachment programme on 3rd & 4th October, 2018 at CCI premises.
 - b. 3-day attachment programme during 15th-17th October 2018 at CCI & DG office.
 - c. 2-day attachment programme on 23rd & 24th October 2018 at CCI premises.
- iv. CCI officers in batches participated in 'Capacity Building Programme on e-Office (Level-1)' organised by National Informatics Centre (NIC), Ministry of Electronics & Information Technology during following days:
 - 29th-31st October, 2018 (4 officers participated)
 - 14th-16th November, 2018 (4 officers participated)
 - 12th-14th December, 2018 (7 officers participated)



- v. CCI organized a lecture by Prof. Faizan Mustafa, Vice-Chancellor, NALSAR University of Law, Hyderabad on the topic 'Freedom of Religion and Supreme Court' under the Distinguished Visitor Knowledge Sharing Series (DVKS) on 16th November, 2018 at CCI premises.
- vi. CPIO-CCI participated in a Residential Workshop on 'Right to Information Act' organized by National Academy of Human Resource Development (NAHRD) at Goa during 19th – 21st November, 2018.



- vii. CCI has established the first Competition Commission of India Chair ("CCI Chair") at Indian Institute of Corporate Affairs (IICA), Manesar on 5th November 2018 for a period of 5 years with a one-time endowment grant /corpus of Rs. 5.00 crore from CCI. The aim of setting up of the chair is to facilitate collaboration between CCI & IICA towards advancement of knowledge on the basis of reciprocity, best practices, and mutual cooperation for building capacity in the field of competition law, economics and policy especially in the context of emerging market economies. The MoU in this regard was signed by Chairperson, CCI and DG & CEO, IICA on 5th November, 2018.
- viii. CCI organized a short workshop on 'Jurisprudence Settled by the Courts and Issues Pending Before the Courts' by Mr. Manoj Pandey, Adviser (Law) on 7th December, 2018 at CCI premises.
- ix. An officer (Office Manager-Lib. Sci.) attended a short term training on 'Open Journal System (OJS) Software for Journal Publishing' organized by Council for Scientific & Industrial Research (CSIR)'s National Institute of Science Communication and Information Resources (NISCAIR), New Delhi at their campus during 10th-14th December, 2018.
- x. Nine officers attended Appreciation Course on 'Parliamentary Processes and Procedures' organized by Bureau of Parliamentary Studies and Training (BPST) during 18th – 20th December, 2018 at BPST.

HR CORNER

- i) Mr. Ashok Kumar Gupta joined as Chairperson, CCI w.e.f. 12th November, 2018 and Ms. Sangeeta Verma joined as Member, CCI w.e.f. 24th December, 2018.
- ii) Mr. Sudhir Mital, Member and Acting Chairperson, CCI completed his tenure on 10th November, 2018.
- iii) DPCs for promotion to the grades of Director (Eco.), Joint Director (Law), Asstt. Director (CS) and PPS were conducted.
- iv) Ms. Smita Jhingran and Mr. Nitin Gupta demitted office of Secretary, CCI and DG, CCI respectively on 28th December, 2018.



Mr. Arun Jaitley, Hon'ble Minister of Finance and Corporate Affairs administering oath to Mr. Ashok Kumar Gupta as Chairperson, CCI



Mr. Ashok Kumar Gupta, Chairperson CCI administering oath to Ms. Sangeeta Verma as Member, CCI

THIRD ROADSHOW ON COMPETITION LAW

18th December 2018
Gandhinagar, Gandhinagar
Gandhinagar, Gandhinagar
Gandhinagar, Gandhinagar



Team CCI at the Third Roadshow on Competition Law, Gujarat

Competition Commission of India
9th Floor, Office Block - 1, Kidwai Nagar (East), Opposite Ring Road
New Delhi-110023, India

Please visit www.cci.gov.in for more information about the Commission.
For any query/comment/suggestion, please write to advocacy@cci.gov.in

Follow us on :   

Disclaimer : The contents of this publication do not necessarily reflect the official position of the Competition Commission of India. Contents of this newsletter are only informative in nature and not meant to substitute for professional advice. Information and views in the newsletter are fact based and incorporate necessary editing.