



Fair Competition
For Greater Good

Fair Play

IN FOCUS

**10th CCI Annual Day Lecture
by Shri N. K. Singh, Chairman,
Fifteenth Finance Commission
on "Should Competitive
Federalism Complement
Co-operative Federalism?"**

VOLUME 29 : April-June 2019



Shri N. K. Singh, Chairman, Fifteenth Finance Commission delivering a lecture on
10th Annual Day of Competition Commission of India.

CONTENT.....



03

From The Desk of the Chairperson



04

In Focus



15

Engaging With The World



07

Section 3 & 4 Orders



19

**Developments In
Other Jurisdictions**



07

Investigation Initiated



20

Advocacy Initiatives



08

Section 5 & 6 Orders



22

Articles on Competition Law



10

**Judicial
Pronouncements**



24

Capacity Building Events



12

Eco Watch



27

Forthcoming Events



14

**Know Your
Competition Law**



27

HR Corner

Find us on Social media:

Facebook: [https://www.facebook.com/pages/category/Government Organization/Competition-Commission-of-India-529934074122118/](https://www.facebook.com/pages/category/Government+Organization/Competition-Commission-of-India-529934074122118/)

LinkedIn: <https://in.linkedin.com/company/competition-commission-of-india>

Twitter: https://twitter.com/CCI_India

FROM THE DESK OF THE CHAIRPERSON



It gives me immense pleasure to share with you the developments in the area of competition law and policy that have taken place during the last quarter through this 29th Volume of 'Fair Play'.

Competition Commission of India undertook some important enforcement measures during the last quarter. After conducting an in-depth inquiry, the Commission imposed a penalty on Madhya Pradesh Chemists and Druggist Association, Indore Chemists Association, Himalaya Drug Company and Intas Pharmaceuticals Limited for indulging in anti-competitive practices viz limiting access of consumers to various pharmaceutical products and controlling supply of drugs in the market by mandating 'No Objection Certificate' ('NOC')/ Letter of Consent (LOC') prior to appointment of stockists. The Commission also ordered an inquiry into the alleged abuse of dominant position

by Google LLC in the mobile operating system and related markets.

On the combinations front, the Commission approved an acquisition of up to 75% of the total issued and paid up equity share capital of Alok Industries Limited by Reliance Industries Limited and JM Financial Asset Reconstruction Company's Trust under the Section 5 and Section 6 of the Competition Act, 2002. The other approvals given were - acquisition of Asian Colour Coated Ispat Limited by JSW Steel Coated Products Limited, amalgamation of GRUH Finance Ltd. into Bandhan Bank Ltd. and acquisition of equity by HDFC Ltd. in Bandhan Bank, and an acquisition of up to 66.15% of the total equity shareholding of Mindtree Limited by Larsen & Toubro Limited.

In the last quarter, a landmark decision was pronounced by a Division Bench of Delhi High Court on a batch of petitions filed by car manufactures challenging constitutionality of certain provisions of the Competition Act, 2002. While substantially upholding the validity of the Act, the Delhi High Court clarified the nature of functions discharged by CCI. It held CCI to be a body that is in part administrative, expert and quasi-judicial in nature. This ruling will go a long way in settling the

jurisdiction on the nature of functions performed by CCI.

In view of the rapid growth of electronic commerce and the rising importance of online trade in a large number of goods and services in India, the Commission has initiated a markets study that will allow the Commission to develop a better understanding of the functioning of e-commerce in the country and its implications for markets on competition.

Additionally, this volume of Fair Play includes competition law developments in other jurisdictions, engagement with global antitrust community, advocacy events and capacity building initiatives undertaken, forthcoming events of Commission, and competition law articles from officers of the Commission.

We, at the Commission, are committed to foster healthy competition culture in the country through robust enforcement and effective advocacy. Fair Play helps our stakeholders keep abreast of latest developments in competition ecosystem in India and abroad and we will continue our efforts to enrich its content for the benefit of its readers.

A handwritten signature in blue ink, appearing to read 'Ashok Kumar Gupta'.

(Ashok Kumar Gupta)



IN FOCUS

The Commission celebrated its 10th Annual Day on 20th May, 2019 which marks the notification of the substantive enforcement provisions of the Competition Act, 2002. On this occasion, Shri N. K. Singh, Chairman, Fifteenth Finance Commission, Government of India, delivered the Annual Day Lecture on the topic “Should Competitive Federalism Complement Cooperative Federalism?”

India is a federation of States, but in practise it has adopted quasi-federalism. Federalism is one of the basic features of Indian democracy and reflects the diversity of India. This diversity is represented by the different States in their assemblies. In modern India, the concept of federalism has evolved from cooperative federalism to competitive federalism. Going forward, India has approached complex issues of governance as “Team India”, in the spirit of cooperative-competitive federalism.

The Union and States are under a constitutional duty to function in a cohesive and cooperative manner in formulation and implementation of national policies, ultimately for the betterment of the public

at large. To ensure equality in relations between the Union and States, India has adopted cooperative federalism by observing distribution of powers, supremacy of the Constitution, a written



Shri N.K. Singh during 10th Annual Day on 20th May, 2019

constitution, rigid constitution and authority of court through constitutional mandate. However, there are limited taxation powers available to the States.

The founding fathers of the Constitution of India had a foresight to build a financial balance between the Union and States to bridge the monetary gap between them. In this respect, the Indian Constitution has enshrined a Chapter on Finance in Part XII of the Indian Constitution, and

Article 280 was incorporated to define the scope and functions of Finance Commission. The Finance Commission oversees distribution of net proceeds of taxes collected between the Union and States, and such distribution is proportionate to the respective contribution of the States. Thus, Finance Commission defines the financial relationship between the Union and States.

With the opening of Indian economy, the role of States has become important as an investment destination. The cooperation between States and the Union has taken a centre-stage to allow ease of doing business in several sectors and removal of impediments to achieve growth among States. The Union in consultation with States has taken proactive steps, such as to abolish archaic laws and has brought amendments to central laws which have led to a positive impact on doing business within States.

India moved ahead from cooperative federalism to competitive federalism to meet United Nations’ Sustainable Development Goals (‘SDG’). Competitive federalism gives States an impetus to match achievements with

respect to other States, while cooperative federalism scales up success in an area to make it adaptable to States. India's strategy for reaching the SDGs is based on a convergence of development, sustainability and inclusion. The three elements driving the development strategy are Competitive Federalism, Cooperative Federalism and Monitoring. Competitive federalism is a concept where the centre competes with States and vice-versa, and States compete with each other in their joint efforts to develop India. Competitive federalism also means State compete with each other resulting in not only better quality of life to citizens but it gives an option to foreign investors to invest in particular state for specific reasons. It is observed that progress of States results in better economic growth resulting in business competitiveness and ultimately helps the Union to achieve its goals.

The introduction of Goods and Service Tax ('GST') is a first step towards competitive federalism under the financial ideology 'one nation-one tax'. GST is created as a common indirect tax market resulting in healthy competition amongst states in tax compliance. Other key measures to help states become more

competitive include initiating the power sector bailout programme through Ujwal Discom Assurance Yojana (UDAY), and redesigning the operations of the former Planning Commission in the form of the NITI Aayog. The latter has engaged State leaders as a consultative body, and aims at fostering cooperative federalism through structured support initiatives and mechanisms with the states on a continuous basis, recognizing that strong States make a strong nation. The Union has increased the share of states in central tax revenue from the earlier 32% to 42%¹ from 24th February, 2015. The government has also declared that the states will have freedom to plan their expenditure based on their own priorities and the states are free to change centrally sponsored schemes.

Through competitive federalism, the states can better manage utility services, provide efficient approval of license to entities and ensure better implementation of land acquisition and labour reforms. In this regard, DIPPT report on 'Assessment of State Implementation of Business Reforms' reflects the Union's steps to increase competitiveness among states.

Approach of NITI Aayog towards cooperative-competitive federalism reflects states assuming responsibility to drive the ease of doing business in India as the Union has limited powers under separation of powers of Schedule VII of the Constitution of India and also most of the national policies are implemented through States. Through cooperative-competitive federalism, there shall be proper and efficient utilisation of state resources resulting in minimum losses to exchequer and resulting in inclusive development of nation. Moreover, this approach will help to achieve nations' objective to facilitate ease of doing business in India, thus, improving the global business index ranking of India which may substantially expedite clearing of pending projects. India has recorded a jump of 23 positions against its rank of 100 in 2017 to be placed now at 77th rank among 190 countries assessed by the World Bank². Hence, competitive and cooperative federalism are two sides of same coin that can co-exist and complement each other through implementation of various schemes via a consultive process.

With this approach of the Union and the States, the nation can

¹<http://pib.nic.in/newsite/PrintRelease.aspx?relid=115810>

²<http://pib.nic.in/newsite/PrintRelease.aspx?relid=184513>

expect a better investment environment along with efficient allocation of resources among themselves. The Competition Commission of India, as a fair play market regulator is poised to play an important role in achieving cooperative-competitive federalism through promotion of economic efficiency to achieve perfect competition. The advantages

of perfect competition are three fold in the form of enhancing allocative efficiency, productive efficiency and dynamic efficiency in markets. The Competition Commission of India through its advocacy schemes can proactively help states to achieve growth and reduce inefficiencies within the system.

To conclude, competitive and cooperative federalism can help to drive business growth in India and bring good governance at district level in States. This is being achieved through close and coordinated efforts of the Union with the States.

Shri N.K. Singh in his Introductory Remarks dwelt upon the scope, jurisdiction, mandate and duties of the Finance Commission in view of the Article 280 of the Constitution of India. He said that it is challenging to provide ideal distribution of tax revenues between Union and the States considering the peculiar issues involved with the States in terms of economic structure, demographic management and administrative mechanism. However, he said that the Finance Commission will endeavor to reward efficiency while recognizing equity.

While appreciating the role of the Commission as a Market Regulator ensuring level playing field, he said that in an increasingly globalized and inter-dependent world, the role of the Competition Commission of India is required to be dynamic. He further underscored the fact

that the globalized and inter-dependent world will draw more private investments and the State Governments can take advantage of that in their all-round progress. Public-Private Partnership (PPP) can also bring positive changes in the developments of the States in India and the Commission can play a vital role in ensuring level playing field.

Shri Singh further underlined the necessity of having a Market Regulator as competition in markets ensure optimum utilization of resources and bring forth innovation at forefront. In view of rapid changes in technology day by day, disruption in services and products have become a new norm in the markets, and dynamic role of the Competition Commission of India is required for its regulation. He also highlighted the fact that the

economic reforms in India so far, have largely focused on the products market, and that it is now imperative to take it to the factor markets which includes reforms in labor and land laws, and ensuring access to capitals.

Earlier, Shri Ashok Kumar Gupta, Chairperson, Competition Commission of India, in his Welcome Address, stated that Commission is a young but perceptive regulator and has strived to nurture a culture of competition in markets through credible antitrust enforcement and regular engagement with the stakeholders. The Commission frequently solicits and takes cognizance of the stakeholders' insights. Since 2009, CCI has reviewed 1010 antitrust cases, 660 merger filings and has held more than 700 advocacy events.



SECTION 3 & 4 ORDERS

CCI penalizes Madhya Pradesh Chemists and Druggist Association (MPCDA) and others for indulging in anti-competitive practice of seeking NOC prior to appointment of stockiest.

- Allegation: Information was filed by Madhya Pradesh Chemists and Distributors Federation against MPCDA and others including certain pharmaceutical companies alleging stifling of competition in the market by limiting access of consumers to various pharmaceutical products and controlling supply of drugs in the market by mandating No Objection Certificate ('NOC')/ Letter of Consent ('LOC') prior to appointment of stockists. CCI on finding a *prima facie* case under the provisions of Section 3 of the Act, directed the DG to cause an investigation in the matter and submit a report.
- Finding: After perusing the information, the investigation report submitted by the DG, replies and arguments of the parties and the evidence on record, CCI found the conduct of MPCDA, Indore Chemists Association (ICA) and some pharmaceutical companies to be in contravention of the provisions of Section 3(3) (a) and 3(3)(b) read with Section 3(1) of the Act.
- Direction: CCI directed MPCDA, ICA and other OPs to cease and desist from indulging in practices which were found to be anti-competitive. CCI directed MPCDA to organize at least five competition awareness and compliance programmes over a period of six months in the State of Madhya Pradesh for its members, and ICA to organize one competition awareness programme in the district of Indore. The Commission further directed two pharmaceutical companies, Himalaya Drug Company (HDC) and Intas Pharmaceuticals Limited (IPL) to bring into place a Competition Compliance Programme and file compliance report with CCI. CCI u/s. 27 of the Act imposed penalty @ 10% of the average income of MPCDA and ICA, and imposed penalty @ 1% of the average revenue/turnover of three years of HDC and IPL. CCI u/s. 48 of the Act imposed penalty @ 10% of the average Gross Total Income on office bearers of MPCDA and ICA and imposed penalty @ 1% of the average Gross Total Income on officials of HDC and IPL.



INVESTIGATIONS INITIATED

CCI orders an inquiry into abuse of dominant position by Google

Allegations: The Commission received an information relating to abuse of dominant position by Google in the mobile operating system and related markets.

Findings: After examining the allegations, the Commission called the parties for a preliminary

conference pursuant to which it passed an order under section 26(1) of the Act dated 16.04.2019 u/s directing the DG to cause an investigation.

Directions: While passing the 26(1) Order, the Commission was of the prima facie opinion that relevant market be defined as “market for licensable smart mobile device operating systems in India” and Google appeared to be dominant as it held

about 80% market share in the aforesaid relevant market. The Commission, in the said order prima facie opined that by pre-installing proprietary apps conditional upon signing of Android Compatibility Commitment for all android devices manufactured/ distributed/ marketed by device manufacturers, Google has reduced the ability and incentives of device manufacturers to

develop and sell alternative versions of Android, thereby limited technical or scientific development. The Commission also opined that mandatory pre-installation of entire Google Mobile Services suite under Mobile Application Distribution Agreement *prima facie* amounted to imposition of unfair conditions on the device manufacturers.



SECTION 5 & 6 ORDERS

Commission approves acquisition of up to 75% of the total issued and paid up equity share capital of Alok Industries Limited by Reliance Industries Limited and JM Financial Asset Reconstruction Company's Trust.

The Commission received a joint notice filed by Reliance Industries Limited and JM Financial Asset Reconstruction Company - March 2019 - Trust for acquisition of up to 75% of the total issued and paid up equity share capital of Alok Industries Limited, which is currently undergoing insolvency resolution proceedings initiated under the Insolvency and Bankruptcy Code, 2016.

The Parties submitted that Alok Industries is a failing firm and that the acquisition will allow for a failing firm to remain operational.

It was noted that products of

the Parties exhibited overlap in the manufacture and sale of following products: (a) polyesters; (b) fabrics; (c) ready-made garments; and (d) home textiles.

In the overall market for polyester in India, the combined market share of the parties was less than 30 per cent in terms of installed capacity and sale, with an increment of less than 5%. In the sub-segments, either the combined market shares of the parties were less than 40% or the increment was less than 10%.

On an overall basis and in all the narrow overlapping

segments for other overlapping products (fabric for men's shirting, suiting and trouser and RMG for men's shirts, trousers and t-shirts and home textiles for towels and bed linens), the individual as well as combined share of parties was insignificant and there were numbers of other players present.

The Commission observed that the combination was not likely to cause appreciable adverse effect on competition in any of the possible alternative relevant markets. Accordingly, the Commission approved the proposed combination.

CCI finds no appreciable adverse effect on competition (AAEC) in relation to acquisition of Asian Colour Coated Ispat Limited by JSW Steel Coated Products Limited.

The Commission received a notice from JSW Steel Coated Products Limited (“**JSWSCPL**”) relating to an acquisition of the entire business operations of Asian Colour Coated Ispat Limited (“**ACCIL**”), which is facing an insolvency proceeding under the Insolvency and Bankruptcy Code, 2016 (“**IBC**”).

JSWSCPL, a public company incorporated in India, is a wholly owned subsidiary of JSW Steel Limited (**JSWSL**) and is a part of the JSW group (**JSW Group**). JSW group through JSWSL (including JSWSCPL) is engaged in the manufacture, distribution and sale of inputs, iron and semis products, flat steel products and long steel products. JSWSCPL also manufactures flat steel products with a focus on Surface Coated Flat Steel Products (**SCPs**) like Galvanised and Galvalume Products (**GPs**) and Colour Coated Products (**CCPs**).

ACCIL, a public company incorporated in India, is *inter alia*, engaged in manufacture of flat steel products limited to Hot rolled Flat Steel Products, Cold rolled Flat Steel Products, SCPs (including GI/GL and

CCPs)

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 steel products in India, viz., (i) Hot rolled coils and sheets and plates (**HR-CSPs**); (ii) cold rolled coils and sheets (**CRCSs**); (iii) SCPs (further segregated into GPs and CCPs).

During the course of competition assessment, it was observed that based on market share analysis such as combined market shares, incremental market shares, presence of other competitors, the combination is not likely to result in substantial change in the competition dynamics or to cause any appreciable adverse effect on competition in any of the aforesaid product segments.

Commission approves amalgamation of GRUH Finance Ltd. into Bandhan Bank Ltd. and acquisition of equity by HDFC Ltd. in Bandhan Bank.

The Commission received a notice jointly filed by Bandhan Bank Ltd. (Bandhan Bank), GRUH Finance Ltd. (GRUH) and Housing Development Finance Corporation Ltd. (HDFC Ltd) in relation to amalgamation of GRUH into Bandhan Bank and acquisition of 14.96% stake

by HDFC Ltd. in Bandhan Bank. In this context, HDFC Ltd. had received in-principle regulatory approval from RBI to acquire only up to 9.9% equity stake in Bandhan Bank. The Commission in its meeting held on 15th April, 2019 approved the proposed combination under sub-section (1) of Section 31 of the Act.

The Commission noted that earlier, Bandhan Bank and GRUH had filed a notice in Form I, in relation to the above proposed combination. However, as the market share of the parties in certain segments exceeded 15% among other information gaps, the Commission directed the parties to file a fresh notice, in Form-II under Regulation 5(5) of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011.

The Commission assessed presence of Bandhan Bank and GRUH, as well as presence of Bandhan Bank, GRUH and HDFC Ltd. in various overlapping business segments, inter alia, provision of bank accounts, provision of loans, etc. The Commission also assessed presence of the parties in narrower business sub-segments.

The Commission noted that the combined market share of the parties in different business segments at both broader

level and narrower level was insignificant. The incremental market share was also negligible in different business segments and their respective sub-segments. However, in one of the business sub-segments, namely, micro loans, the Commission noted that the combined market share of the parties was in the range of 25-30%, but the same was not likely to raise any competition concerns due to the presence of other competitors. Accordingly, the Commission noted that the combination was not likely to cause appreciable adverse effect on competition in any of the possible alternative business segments or their respective sub-segments in India.

Commission approves acquisition of upto 66.15% of

the total equity shareholding of Mindtree Limited by Larsen & Toubro Limited.

The Commission received a notice filed by Larsen & Toubro Limited (L&T) for acquisition of controlling stake of upto 66.15% of the total equity shareholding of Mindtree Limited, pursuant to a Share Purchase Agreement dated 18th March, 2019 between L&T and Coffee Day Enterprises Limited, Coffee Day Trading Limited and Mr. V. G. Siddhartha.

Broadly, both L&T (through its subsidiaries) and Mindtree are present in the market for 'IT and ITES'. Within the IT and ITES, the parties exhibited overlaps in (i) IT Consulting; (ii) Hardware Support Services; (iii) IT Implementation Services;

(iv) Customer Software Support Services; (v) IT Outsourcing Services and (vi) IT Engineering Services.

The combined market shares of the parties at the broader level i.e. IT and ITES in India were insignificant, and within the above stated overlapping sub-segments of IT and ITES were between [0%-5%]. There were other large players operating in the market such as Tata Consultancy Services, Wipro, Infosys, HCL and Tech Mahindra etc.

The Commission observed that the combination is not likely to cause appreciable adverse effect on competition in any of the possible alternative relevant markets. Accordingly, the Commission approved the combination.



JUDICIAL PRONOUNCEMENTS

1. Delhi High Court upholds the constitutionality of the provisions of Competition Act, 2002

Pursuant to the Competition Commission of India (CCI) order(s) passed under Section 27 of the Competition Act, 2002 (the Act) imposing penalty on the 14 automobile companies in Case No. 3/2011

and one Super Cassettes Industries Pvt. Ltd. in Case No. 40/2011, 11 original equipment manufacturers alongwith Super Cassettes filed writ petitions before the Hon'ble Delhi High Court challenging the constitutional validity of various provisions including Sections 8, 9, 15, 17, 22 (3), 26, 27, 36, 53C, 53D, 55, 56 & 61 of the Act and

Regulations 37, 41, 44, 45 & 48 of CCI (General Regulations), 2009 (General Regulation). The order of CCI imposing penalty was also challenged for being unconstitutional and violative of fundamental rights, principles of natural justice i.e. violative of Article 14, 19 and 21 of the Constitution of India and therefore, ultra vires the Constitution.

The Division Bench of Delhi High Court *vide* judgment dated 10.04.2019 in *Mahindra Electric Mobility Limited & Anr. vs CCI & Anr.*, upon the first issue i.e. whether CCI is a tribunal exercising judicial functions only, held that CCI does not perform only or purely adjudicatory functions so as to be characterised as a tribunal solely discharging judicial powers of the state; it is rather, a body that is in parts administrative, expert (having regard to its advisory and advocacy roles) and quasi-judicial - when it proceeds to issue final orders, directions and (or) penalties.

Second issue that was framed was whether CCI is unconstitutional inasmuch as it violates the separation of powers principle. The court dealt with the provisions of the Act that were challenged by the petitioners and also undertook a comparison of different regulatory bodies vis-a-vis CCI. Further, the constitutionality of the provisions of the Act that were challenged was upheld, however, Section 22(3) providing a casting vote to the Chairperson of the CCI except the proviso thereto and Section 53E which deals with composition of the selection committee of the Appellate Tribunal (subject to the final decision of Hon'ble Supreme Court in the writ petitions challenging the Finance Act, 2017) were held to be unconstitutional and void.

The third issue framed was whether Section 22(3) of the Act is unconstitutional and whether the revolving door policy vitiating any law, policy or practice rendered by the CCI. The court held that the provision of Section 22(3) (related to 'Meetings of the Commission'), to the extent it enables the Chairperson or the senior member presiding a meeting of the Commission to vote twice, has to be declared void in entirety. The only provision which would survive is the proviso to Section 22(3) which mandates a minimum quorum of three members (including the Chairman). On the issue of revolving door policy, the Court directed that when all evidence (i.e. report, its objections/affidavits etc.) are completed, the CCI should set down the case for final hearing. Once the hearing commences, all members (who hear the case, be they in quorums of 3 or 5 or seven) should continue to be part of the proceeding, and all hearings, *en banc*.

With regard to the fourth issue framed i.e. CCI's power to expand the scope of inquiry and notice under Section 26 (1), the court held that at the *prima facie* stage, CCI may not necessarily have all information or material in respect of the parties' conduct affecting competition in the market, and thus, it is within CCI's power to expand the scope of inquiry to include other allied issues and parties.

The fifth issue framed was whether Section 27 (b) of the Act and the provision for penalties is unconstitutional or the orders impugned are arbitrary. The Division Bench held that Section 27 is not arbitrary or unreasonable as each petitioner was given full hearing which included submissions on potential orders under Section 27. Further, it was held that to decide whether to, and to what extent the penalty is to be imposed are in the domain of the CCI's discretion, and CCI is bound to exercise the same, keeping in mind the factors discussed in the Excel Crop Care judgment of Hon'ble Supreme Court and also general objects and purposes of the Act.

The Bench further directed CCI to frame guidelines with respect to ensure that one who hears decides is embodied in letter and spirit in all cases where final hearings are undertaken and concluded; to ensure that during the final hearing, the judicial member is present and participates in the hearing; and that the parties should, at the final hearing stage, address arguments, also on penalties. A separate show cause before imposition of penalty is not required.

The car manufacturers were allowed by the Bench to approach the Appellate Tribunal within six weeks alongwith a direction that the Appellate Tribunal is to admit the appeal(s) on merits, without

raising any objection on limitation.

2. Proceedings under Section 48 with regard to the public servants

CCI after finding a *prima facie* case of contravention issued directions for investigation into the alleged abuse of dominance on the part of Department of Town and Country Planning, Government of Haryana (DTCP). The Director General (DG) identified the officers of DTCP for the purposes of Section 48

of the Act. Pursuant to same, CCI issued orders directing the officers of DTCP to furnish income details including their ITRs from the year 2015 to 2018. Said orders were challenged by the officers of DTCP before the Delhi High Court on the grounds that since final order under Section 27 of the Act has not been passed, no proceedings against the officials under Section 48 of the Act can be instituted.

Delhi High Court *vide* order dated 15.05.2019 in *Anurag Rastogi vs CCI & Anr.* held

that the investigation cannot be stayed with regard to the role of the officers of DTCP/ petitioners as they are at liberty to avail appropriate remedies as available in law, if a final order adverse to them is passed by the CCI. The court held that no serious prejudice is caused to the officers of DTCP by the order directing them to submit their ITRs. The officer of DTCP being a public servant, in any event, is required to maintain transparency regarding their financial affairs.



ECO WATCH

Recent economy wide initiatives and Competition

- **RBI releases vision document “Payment and Settlement Systems in India: Vision- 2019 - 2021”**

The Reserve Bank of India (RBI), has ensured that “*India has ‘state-of-the-art’ payment and settlement systems that are not just safe and secure, but are also efficient, fast and affordable.*” in its vision document. The vision document stresses on the need for continued emphasis on innovation, cyber security, financial inclusion, customer protection and competition.

The core theme of the vision document is “Empowering

Exceptional E-payment Experience.” To achieve the goal, the Vision envisages four goal-posts (4 Cs) i.e., Competition, Cost, Convenience and Confidence. For enhancement of competition in the payment systems landscape, specific thrust areas like creating regulatory sandbox, authorizing new players, etc., have been incorporated. It is important to note that regulatory sandbox is a framework set up by financial sector regulators to allow small scale, live testing of innovations by private firms in a controlled environment under the regulator’s supervision.

This will help enhance the innovations and entry of new competition in the payment system. The vision document gives utmost importance to the power of competition in achieving its goal towards lowering cost. Moreover, freer access with availability of multiple payment system options anytime-anywhere seeks to achieve convenience.

- **FAME India Phase II**

At present, India’s share of the global Electric Vehicle (EV) market is less than 0.1% whereas China accounts for approximately 50% share in 2016. To address the problem

of environmental pollution and fuel security, the Government has approved the proposal of **Faster Adoption and Manufacturing of Electric Vehicles** in India Phase II (FAME India Phase II) for the development and promotion of electric mobility. The scheme, with a total outlay of Rs. 10,000 crore over a three year period, is an expanded version of the erstwhile scheme FAME India Phase I which was launched in 2015 as an initiative towards clean mobility. Such a policy is expected to promote and nurture greater competition amongst EVs manufacturers. It may also foster an ecosystem where numerous car manufacturers compete effectively and offer a wide-ranging choice of affordable cars to consumers in every segment.

• **UDAY II and Competition in Power Sector**

The UDAY (Ujwal DISCOM Assurance Yojana) scheme was dedicated to make provision of affordable and accessible power for all, through financial turnaround and revival package for state electricity distribution companies i.e. DISCOMS.

Sequel to the scheme is UDAY II that is envisioned on reducing state-owned DISCOM's losses along with improving operational efficiencies like addressing the problem of meter reading, collection, billing and theft or leakages through the adoption of technology of smart meters. However, at present most of the DISCOMS are unable to meet their financial targets of loss reduction. Hence, the Central Electricity Authority (CEA), the apex technical body in the ministry of power, is in the process of developing a model to enable the DISCOMS to be commercially viable. Some of the important facets of the draft amendment to the Electricity Act, 2003, that was put forward in September 2018, are the separation of content and carrier in power distribution, the ability of DISCOMS to own and operate the power distribution infrastructure and allowing more private players to enter the market. Moreover, the introduction of "time-of-day" pricing for electricity suppliers will ease the management of peak demand and variability for renewable energy along with the provision of a better deal for consumers.

This will enhance competition in the industry as new entrants with sophisticated technology can penetrate and establish themselves in the market. It will also increase consumer choice by providing them with numerous electricity suppliers in their area.

• **Air India Disinvestment**

The divestment of Air India may get back on track. The attempt on divestment in the sector last year fell short of success due to the retention of 24 per cent stake by Government. However, this time the government may sell 100 per cent of its stake. After the exit of Jet Airways, fewer major players have remained in the aviation sector such as Interglobe Aviation Ltd (Indigo), Air India, Spicejet, etc. Hence competition has been significantly reduced. Considering the fact that Air India is a public sector organization and has not been able to be a credible competitor due to operational inefficiencies, such divestment will result in an entry of an effective competitor in the aviation sector which may enhance competition in the sector.



KNOW YOUR COMPETITION LAW

Proceedings against government officials of a company

Section 48 of the Competition Act, 2002 (the Act) contains provisions regarding liability of directors/ office bearers of a company when a company is found to have contravened the provisions of the Act.

Sub-section (1) of Section 48 provides that where a person committing contravention of the Act is a company, every person who, at the time when the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. However, such person shall not be liable to punishment if he proves that contravention was committed without his knowledge or that he had exercised all due diligence to prevent such contravention. Sub-section (2) of Section 48 provides that where it is proved that the contravention took place with the consent or connivance of or attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such officer shall also be deemed to be guilty of the contravention and shall be

liable to be proceeded against and punished accordingly. 'Company' for the purpose of Section 48 is defined as a body corporate and includes a firm or other association of individuals.

The law upon the "applicability of Section 48 upon the officials of a company" has been settled by the Division Bench of Delhi High Court in the matters of *Cadila Healthcare Limited and Anr. vs. CCI and Ors.*³ and in *Monsanto Co. vs CCI.*⁴ The Division Bench in both the cases relied upon the judgment of *Pran Mehra vs. CCI*⁵ in holding that there cannot be two separate proceedings in respect of the company and the key persons under the Act as the scheme of the Act does not contemplate such a procedure. However, it would be open to the key-persons to contend that the contravention, if any, was not committed by them, and that, they had employed due diligence to prevent the contravention.

The Division Bench of Kerala High Court in the matter of *B. Unnikrishnan and Ors. vs. CCI & Ors.* while hearing a writ appeal filed before it refused to interfere with the findings of Single Judge challenged therein and directed the office

bearers to raise objections before CCI and dismissed the writ appeal. The Single Judge of Kerala High Court held that the proceedings under Section 48 of the Act is a composite one and those who are responsible under Section 48 should be examined simultaneously with the opposite parties as the Competition Act does not contemplate separate proceedings against the organisation and office bearers. As such, the guilt if any, of the persons who come under Section 48 of the Act also needs to be examined simultaneous to the guilt of the opposite parties.⁷

A recent decision of the Delhi High Court in *Anurag Rastogi vs CCI & Anr.*⁸ has given new dimension to the settled law with regard to the applicability of Section 48 upon the officials of a company. The court held that no serious prejudice is caused to the officers of a government entity (Department of Town and Country Planning, Government of Haryana) by the order of CCI directing them to submit their income tax returns. The petitioner being a public servant, in any event, is required to maintain transparency regarding their financial affairs.

³Decision dated 12.09.2018 in LPA 160/2018; 252 (2018) DLT 647

⁴Decision dated 18.12.2018 in LPA Nos. 637 & 651/2018; MANU/DE/4656/2018

⁵Decision dated 26.02.2015 in Writ Petitions No. 6258/2014, 6259/2014 and 6669/ 2014

⁶Decision dated 08.11.2016 in Writ Appeal No. 2176/2016

⁷Decision dated 23.09.2016 in Writ Petition No. 22534/2016

⁸Decision dated 15.05.2019 in Writ petition No. 5308/2019



ENGAGING WITH THE WORLD

Participation of CCI in various workshops / seminars / meetings:

1. Mr. Ashok Kumar Gupta, Chairperson, CCI and Mr. Manoj Pandey, Adviser (Law) participated in the 2019 International Competition Network (ICN) Annual Conference during 14th -17th May 2018 in Cartagena, Colombia.



CCI Chairperson, Shri. Ashok Kumar Gupta as a panellist in International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



CCI Chairperson, Shri Ashok Kumar Gupta and Adviser (Law), Shri Manoj Pandey during a panel discussion on competition issues.

2. Mr. U.C.Nahta, Member and Mr. Ved Prakash Mishra, Director (Law) participated in the International Bar Association Annual Competition Mid-Year Conference during 6th -7th June 2019 in Tokyo, Japan.
3. Mr. Rakesh Bhanot, Adviser (FA) and Dr. Bidyadhar Majhi, Director (Eco) participated in UNCTAD e-Commerce Week during 1st - 5th April 2019 in Geneva, Switzerland.
4. Ms. Payal Malik, Adviser (Eco) participated in St. Petersburg International Economic Forum during 6th -8th June 2019 in St. Petersburg, Russia.
5. Mr. Sukesh Mishra, Director (Law) and Mr. Dharmvir Singh, Deputy Director General participated in Global Antitrust Institute (GAI) Economics Institute for Competition Enforcement Officials 23rd – 28th June 2019 in Huntington Beach, California, USA.



CCI, Chairperson, Shri Ashok Kumar Gupta shares a copy of Fair Play with Mr. Kim Sang-Jo, Chairperson of the Korea Fair Trade Commission (KFTC) at International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



CCI, Chairperson, Shri Ashok Kumar Gupta with Mr. Johannes Laitenberger, Director General of the European Commission, Directorate General for Competition (EC DG Comp) at International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



CCI, Chairperson, Shri Ashok Kumar Gupta with Mr. Alexandre Cordeiro Macedo, General Superintendent of the Brazilian Conselho Administrativo de Defesa Econômica (CADE) at International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



CCI, Chairperson, Shri Ashok Kumar Gupta with Mr. Mathew Boswell, Commissioner of Competition of the Competition Bureau (Canada) at International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



CCI, Chairperson, Shri Ashok Kumar Gupta shares platform with Makan Delrahim Assistant Attorney General, United States Department of Justice, Antitrust Division (US DoJ) at International Competition Network (ICN) Annual Conference held in Cartagena, Colombia.



Meeting of Member Shri U.C. Nahta and Director (Law), Shri Ved Prakash Mishra with Shri Sanjay Kumar Verma, Indian Ambassador to Japan



Mr. U.C.Nahta, Member, Competition Commission of India in panel discussion at the International Bar Association Annual Competition.



Shri Manoj Pandey, Advisor (Law), Competition Commission of India in a panel discussion on remedies in unilateral conduct cases.



Ms. Payal Malik, Adviser (Eco) participating in the panel discussion at International Economic Forum in St. Petersburg, Russia.



Mr. Rakesh Bhanot, Adviser (FA) and Dr. Bidyadhar Majhi, Director (Eco) in Geneva, Switzerland.



Mr. Sukesh Mishra, Director (Law) and Mr. Dharmvir Singh, Deputy Director General in Huntington Beach, California, USA.



DEVELOPMENTS IN OTHER JURISDICTIONS

1. AUSTRALIA

Red Rich Fruits amends contracts with growers after ACCC concerns

A trader in apples, pears and other fresh fruits has agreed to change its horticulture produce agreements with growers after the ACCC raised concerns the agreements contained unfair contract terms, and terms which did not comply with the Horticulture Code of Conduct.

M.V Napoleone & Co Pty Ltd, trading as Red Rich Fruits, has agreed to amend a term in its standard form horticulture produce agreement considered by the ACCC to likely be an unfair contract term under the Australian Consumer Law.

The term allowed Red Rich Fruits to seek credit from a grower for produce Red Rich Fruits had on-sold to a third party, but which was then rejected by the third party. The grower was required to provide credit for the amount the third party had contracted to pay Red Rich Fruits for the rejected produce, which was likely to include the trader's profit margin.

The Horticulture Code is a mandatory industry code prescribed under the Competition and Consumer Act 2010 and it prohibits growers and wholesalers from trading in horticulture produce without a written agreement that complies with the requirements of the Horticulture Code.

2. RUSSIA

Participants of procurement for improving Moscow territories are suspected of a cartel

Moscow OFAS opened a case against 5 procurement participants for urban improvement works in the Northern Administrative District of Moscow. The anti-monopoly body exposed signs of an

anti-competitive agreement between "Petrovsky Park" Ltd., "Argonavto" Managing Company" Ltd., "Argonavto" Ltd., "Vektor" Ltd. and "Master" Ltd. that was aimed at maintaining prices at 28 auctions for the right to carry out works for improving territories in the northern part of Moscow in 2016-2018.

According to preliminary estimate of Moscow OFAS, the total sum of the contracts concluded as a result of the anti-competitive agreement exceeded 90 million RUB.

3. JAPAN

JFTC issues cease and desist orders and surcharge payment orders to two manufacturers of modified asphalt for paving

The Japan Fair Trade Commission (JFTC) has issued cease and desist orders and surcharge payment orders to two manufactures, Nichireki Co., Ltd. and Nissin Kasei Co., Ltd., of Modified Asphalt for Paving. These manufacturers violated the prohibition of the Article 3 of the Antimonopoly Act (AMA). The total amount of the surcharge to be paid is about 3,140 million yen.

JFTC found that the above two manufactures and Toa Road Corporation (hereinafter '3 companies') substantially restrained competition in the field of sales of Modified Asphalt for Paving by agreeing their mark-up, etc.

JFTC also issued a caution to the other 5 companies which discussed transaction with 3 companies in some areas are likely to be in violation of prohibition of the Article 3 of the AMA.

4. UNITED STATES

FTC imposes conditions on United Health Group's proposed acquisition of DaVita

Medical Group

Healthcare provider and insurer UnitedHealth Group Incorporated and healthcare provider DaVita, Inc. have agreed to a settlement to resolve Federal Trade Commission allegations that UnitedHealth Group's proposed \$4.3 billion acquisition of DaVita's DaVita Medical Group will harm competition in healthcare markets in Clark and Nye Counties, Nevada.

Under the proposed settlement, no later than 40 days after the acquisition is final, UnitedHealth Group will divest DaVita Medical Group's healthcare provider organization in the Las Vegas Area (known as HealthCare Partners of Nevada) to Intermountain Healthcare, a Utah-based healthcare provider and insurer.

Under the proposed settlement order, in addition to the divestiture obligations, United Health Group and DaVita are required to:

- provide transition assistance to Intermountain Healthcare that includes access to and use of intellectual property and business equipment and information;
- properly transfer all confidential business information;
- for one year after the divestiture date, provide Intermountain Healthcare with the opportunity to interview and hire employees to fill key information technology and critical services positions in Health Care Partners of Nevada; and
- until the divestiture is complete, maintain the assets and marketability of HealthCare Partners of Nevada.



ADVOCACY INITIATIVES

During the quarter, a total 17 advocacy events were organised by the Commission.

I. Advocacy Events with Universities

- a. Shri Vipul Puri, Deputy Director (FA) delivered a lecture on Competition Law in a training programme for Regulatory Officers at Indian Institute of Corporate Affairs, Manesar on 6th April, 2019.



- b. Shri Pranav Satyam, Deputy Director (Economics) delivered a lecture on 'Procedure for filing information before the Commission and appeals to NCLAT' at Indian Institute of Corporate Affairs on 28th June, 2019.



- d. Shri Pranav Satyam, Deputy Director (Economics) delivered a lecture on 'Consumer and Competition Law' at Cochin University on 14th June, 2019.



- c. Dr. Sangeeta Verma, Member, Competition Commission of India at roundtable conference with Infrastructure Regulators at 17th SAFIR Core Course, Indian Institute of Corporate Affairs on 8th April, 2019.



- e. Shri Manish Mohan Govil, Advisor (Law), Combination Division participated at half day workshop on Policy and Practice of Merger Control in India organized at IFIM Law School Campus, Bengaluru on 26th April 2019.



- f. Shri Manish Mohan Govil, Advisor (Law), Combination Division delivered a lecture on Mergers and Acquisition at IIM- Lucknow, NOIDA Campus on 27th June, 2019.



- g. Ms. Jyotsana Yadav, Deputy Director (FA) delivered a lecture on Competition Law at Geeta Institute of Law, Panipat on 16th April, 2019.



- j. Shri Manoj Pandey, Advisor (Law) delivered a lecture on Competition Law at IIM Ahmedabad on 24th June, 2019.



- h. Shri Manoj Pandey, Advisor (Law) delivered lecture on Competition Law at Christ College, Bangalore on 27th June, 2019.



- k. Shri Mukul Sharma, Deputy Director (Economics) took part in a brain storming meeting on power economics and regulatory course at IIT Roorkee, Greater Noida Campus on 3rd May, 2019





ARTICLES ON COMPETITION LAW



Piercing of Corporate Veil

-Savitri Kore

One of the unique features of a company is that a company is considered as a separate legal entity distinct from the members constituting it. Members of the company are shielded from the liabilities arising out of actions of the company. However, whenever a corporate entity is being abused for an unjust and illegal purpose, the courts have lifted the corporate veil and held the persons behind the company guilty and liable. Usually, this option is chosen when there is question of control rather than ownership.

Similar provisions are also included in the Section 48 of the Competition Act, 2002 ('Act'). Section 48(1) provides that in case of contravention of the Act, every person (includes individuals) who was in charge of and was responsible for the conduct is liable for punishment. However, proviso to Section 48(1) states that nothing contained in this section shall apply, if the responsible individual proves that the

contravention was without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention. Thus, Section 48(1) of the Act presumes persons in charge and responsible as guilty of the contravention. However, it also allows this provision to be rebutted if the person can prove that the infringing act was committed without their knowledge, or that they had exercised due diligence to prevent such contravention.

Further, Section 48(2) provides that if it is proved that the company has contravened the Act and such contravention has taken place with the consent, connivance or is attributable to the neglect on the part of any director, manager, secretary or other officer of the company, then such persons shall also be deemed to be guilty of the contravention, and shall be liable to be punished according to the provisions of the Act. Thus, Section 48(2) extends to any individual who was involved in the Company's contravention, and the consent, connivance, or neglect of the relevant individuals is established by their de facto involvement, and is therefore not rebuttable.

Commission has penalized Directors and office bearers in various cartel cases. Although Commission had attributed liability on to office bearers of companies and association,

no penalty was levied till 2013. However, this trend changed in 2014. In Bengal Chemists and Druggists Association (BCDA case), the BCDA was found guilty of anti-competitive practices for directly/indirectly determining the sale price of drugs and controlling the supply of drugs in a concerted manner and the office bearers of the association were penalized under Section 27 of the Act at 10% of their average income for three preceding financial years.

Further, in Cartelization in respect of zinc carbon dry cell batteries market in India (Suo Motu Case No. 2 of 2016) the Managing Director of the company was held liable for the company's contravention of the Act. Additionally, in bid rigging of the tenders floated by Sports Broadcasters, certain key managerial personnel (such as Managing Directors and Chief Executive Officers) were held liable under Section 48(1) of the Act. Similarly, in the *Indian Jute Mills Association case*, Commission found the office bearers of Indian Jute Mills Association to be liable and were penalized for their anticompetitive conduct.

Besides imposing penalties on guilty individuals, Commission also has powers to pass any order as it may deem fit under Section 27 of the Act. In the *Alkem case (P.K. Krishnan v Alkem Laboratories & Ors,*

Case No. 28 of 2014) the Commission not only imposed a penalty of 10% on the individuals' average income for the past three preceding years, but also specifically directed the All Kerala Chemists and Druggists Association to disassociate its management, governance and administration from two of its office-bearers for a period of two years. Thus, there is a theoretical possibility that individual responsible for contravention might lose his job.

Commission has examined the role of Directors and other officials in abuse of dominance cases as well. However, no penal action has been taken in any of the case so far. Recently, Monsanto has moved Supreme Court against CCI's order to probe its official for their alleged role in abuse of dominance by Monsanto. However, the matter is still sub judice.

It is the fiduciary duty of Directors and other officials of the company to protect interests of shareholders and the society. However, in the zeal to earn more revenue, directors lose sight of their duties and get involved in anti-competitive practices. Individual culpability ensures that Directors and other officials act responsibly and examine matters from all legal angles while making decisions on behalf of the organization.



Need to be compliant with Competition Law: WHY?

Jyotsna Yadav

It is known that Competition Commission of India (hereinafter, the Commission) is mandated to look into the anti-competitive behaviour such as cartelisation, exploitative or exclusionary conduct of dominant entities etc. in the markets in India. Not to forget that cartel includes the instances of price fixation, output restriction and market sharing apart from bid rigging by the market players engaged in similar business activity or operating at same level. On the other hand, in unilateral conduct cases, the dominance needs to be ascertained before examining the conduct of the impugned entity/person.

The Commission institutes an inquiry after forming a prima facie opinion that the matter at hand needs to be investigated. It is crucial to note that compliance of the directions by the parties to the proceedings is extremely important during the whole process of inquiry. While the matter is under investigation, non-cooperation during investigation in the form of non-furnishing of requisite information, furnishing of false information, not presenting oneself for examination on oath, non-response to the

notices etc. attracts substantial penalty to the tune of rupees one lakh per day subject to a maximum of rupees one crore. Moreover, the cooperation exhibited by the party during investigation can be taken as a mitigating factor by the Commission in levy of penalty while considering the case of non-compliance by such party. The provisions of the Competition Act, 2002 (hereinafter, the Act) are abundantly clear in terms of not letting the non-compliant person go without reprimand.

It must be noted that once a contravention of the relevant provisions is established before the Commission, the Commission is empowered under Section 27 of the Act to levy a penalty which can extend up to ten percent of the average turnover of the entity for last three preceding financial years. The penalty can be huge in cartel cases, where the Commission is empowered to impose upon each producer, seller, distributor, trader or service provider participating in a cartel, a penalty of up to three times of its profit for each year of the continuance of such cartel agreement, or ten percent of its turnover for each year of the continuance of the cartel agreement. It is pertinent to note that as per the provisions of the Act, the term 'agreement' used hereinabove has wider connotations and includes any arrangement or understanding or action in concert, whether or not, such arrangement or understanding or action in concert is formal or in writing or is intended to be enforceable

by legal proceedings. Not to forget that such heavy penalties bring disrepute to such contravening entities.

Apart from imposing pecuniary penalty, the Commission may give directions to 'cease and desist' from doing or indulging into any act which is termed as anti-competitive or abusive by the Commission or modification of the terms of agreement which are found to be anti-competitive or abusive, impose sanctions on the contravening individuals from holding office in the concerned entities for specified duration etc.

Beside these, the Commission also enjoys discretionary power to pass such other order or directions as it may deem fit. The Commission has used this power very sparingly and

prudently. In most cases it is invoked to raise awareness among the stakeholders by directing the contravening parties to conduct competition advocacy seminars and/or to introduce a competition compliance programme within the stipulated duration. The purpose of such directions is to encourage the entities to foster a culture of compliance so that it gets embedded into every day workflow of individuals across the organisation. Through these, the Commission aims to enhance awareness among the employees/management of the contravening party to remain competition compliant and prevent such parties from indulging into similar conducts in future. Any delay or lapse in compliance with such

obligations attracts significant costs to the person.

One shall be clear that the term 'person' used here includes a natural person as well as artificial person. The consequence of non-compliance of the orders of the Commission can be more severe as the contravening person may be punished with imprisonment for a term which may extend to three years or with fine that may extend to rupees twenty-five crores or with both, as the case may be.

It is a well-known maxim that 'prevention is better than cure' and something more which can be added to it is 'better late than never'. With a proactive approach, compliance can be a by-product of doing things right in the first place itself.



CAPACITY BUILDING EVENTS

- i. CCI initiated a new monthly lecture series under the name 'Special Lecture Series (SLS)' and the first lecture was organized on 12th April, 2019 by Prof. Viswanath Pingali, Indian Institute of Management Ahmedabad (IIM-A) on the topic '**Policy Uncertainty and Firm Response: Do Foreign Firms React Differently to Domestic Firm?**' at CCI.



Prof. Viswanath Pingali, delivers lecture at Competition Commission of India.

ii. CBD organized following three Peer to Peer sessions during the quarter:

a. **“Pricing Methodology in Case of Multinational Corporation”** by Sh. Manoj Pandey, Adviser (Law) on 18th April, 2019 at CCI.



Shri Manoj Pandey, Adviser (Law) delivers lecture on comparable uncontrolled price method.

b. **“Competition Issues in Radio Taxi Markets in India with reference to select CCI Orders”** by Mr. Yogesh Kumar Dubey, Deputy Director (Eco) on 13th May, 2019 at CCI.



Mr. Yogesh Kumar Dubey, Deputy Director (Eco) explains the nuances of competition issues in radio taxi markets in India.

c. **“Review of an article titled ‘Bridging the divide? Theories for integrating competition law and consumer protection’** written by Mr. Max Huffman and published in European Competition Journal Vol. 6, No.1 by Mr. T. K. Subramanian, Research Associate (Eco) on 27th May, 2019 at CCI.



Mr. T. K. Subramanian, Research Associate (Eco) explains the key points in review of the article written by Mr. Max Huffman.

iii. Two members of CCI’s Internal Complaints Committee (ICC) for dealing with sexual harassment of women at CCI & O/o DG, CCI participated in a residential workshop on **‘Prevention of Sexual Harassment of Women at Working Place’** organized by National Academy of Human Resource Development (NAHRD) at Gangtok during 2nd – 4th June, 2019.



- iv. CBD organized an awareness workshop on 'Gender Sensitization' by Ms. Aparna Mittal, Advocate and Founder of Samna Centre for Gender, Policy and Law, a broad based social impact consultancy focused on Gender Diversity, on 14th June, 2019 at CCI.



- v. ACPIO, CCI participated in a residential workshop on “**Right to Information Act**” organized by National Academy of Human Resource Development (NAHRD) during 5th-8th June, 2019 at Gangtok, Sikkim.



- vi. CBD organized 2nd lecture under newly initiated monthly ‘Special Lecture Series (SLS)’ by Dr. Sushanta K. Chatterjee, Joint Chief (Regulatory Affairs), Central Electricity Regulatory Commission (CERC) on the topic “**Wholesale Power Market Re-design Seeking to Promote Competition and Efficiency in the Sector**” on 17th June 2019 at CCI.





FORTHCOMING EVENTS

- o Issue of fresh vacancy circular on deputation basis in respect of DG's office.
- o Completion of selection process on deputation basis in CCI.
- o Mr. Arpit Gupta, Deputy Director (Economics) shall deliver lecture on Competition Issues in Public Procurement at NIFM on 5th July, 2019.
- o Mr. Sukesh Mishra, Director (Law) shall deliver lecture on Competition Law at Odisha Judicial Academy on 17th July, 2019.
- o Mr. Anuj Verma, Deputy Director (FA) shall deliver lecture on Competition Law during Practitioner Speaker Series at Ambedkar University, Delhi on 18th July, 2019.
- o Mr. Rahul Ravindran, Director (Law) shall conduct half day workshop on Competition Law at Kerala Judicial Academy on 9th August, 2019.
- o Mr. Manish Govil, Advisor (Law) shall deliver lecture on Competition Issues in Pharma and Medical Sector at Aligarh Muslim University on 17th August, 2019.
- o BRICS International Competition Conference is being organised during 16-19 September 2019 at Moscow, Russia. The delegation from India will be led by Shri Ashok Kumar Gupta, Chairperson, Competition Commission of India.



HR CORNER

- i) A vacancy circular was issued on 05.04.2019 to fill up 14 posts of Professional and Support Staff in CCI on deputation basis.
- ii) Vide advertisement dated 10.05.2019, applications invited to engage 21 Research Associates/ Experts in CCI on contract basis.
- iii) While an Asstt. Director (CS), namely Shri Jayant Kumar, joined CCI on 08.04.2018 on deputation basis, two deputationists, namely Shri Vinod Kumar, DDG and Shri Ambrish Kumar Sharma, AD(CS) were relieved from CCI on 21.05.2019 (F/N) and 31.05.2019 respectively on their own request.
- iv) Shri D. Radhakrishnan, PPS retired on attaining the age of superannuation on 30.04.2019. Shri Vinayak, OM(CS) resigned w.e.f. 24.04.2019.



Shri Ashok Kumar Gupta, Chairperson, Competition Commission of India welcomes Shri N. K. Singh, Chairman, Fifteenth Finance Commission, Government of India with a token of appreciation.

Competition Commission of India
9th Floor, Office Block - 1, Kidwai Nagar (East),
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 : [!\[\]\(c3d993ca47bfe2a953c700506ce31fa0_img.jpg\)](#) [!\[\]\(c468cde8f04e2e2a6ba3c2a373e05c45_img.jpg\)](#) [!\[\]\(bb556800b100164a948e6987b050d670_img.jpg\)](#)

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.